

Evidence before Joint Committee on Indian Constitutional Reform

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12,465. *Dr. B. R. Ambedkar:* Were there Ministers in India at the time when you were District Judge ?

Lt. Col. C. E. Bruce : There were, but they were not concerned with me ; I should say, not elected Ministers, but I am referring now to the future in this Memorandum when, as I understand, the proposed Constitution—

12,466. *Dr. B. R. Ambedkar:* I thought you were speaking from your experience?

Lt. Col. C. E. Bruce: May I explain to you ? This refers to the future when the proposal is to place Ministers under elected Legislatures and responsible to elected Legislatures and liable to stand or fall with their Cabinets.

Sir Hari Singh Gour: Your words are prophetic.

(16)

Wing Commander A. W. H. James, M.P., and Dr. J. H. Hutton, C.I.E., I.C.S.

D29. *Dr. B. R. Ambedkar:* Cannot they plead tribal law as their customary law ?

Wg. Comdr. A. W. H. James : No ; it is not recognised by the High Court.

Dr. B. R. Ambedkar: The High Court would recognise any custom ?

Wg. Comdr. A. W. H. James: It is not necessary to establish that it is a Hindu or Mohammedan custom. If there is no law laid down in that sense, the custom would govern. Ordinarily, that would be the thing. I am not speaking with first hand knowledge.

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D222. *Dr. B. R. Ambedkar:* Dr. Hutton, in reply to a question by Major Attlee, I think you stated that you would prefer that the administration of the excluded areas should be a Central subject, rather than a Provincial subject ?

Dr. J. H. Hutton: That is my own feeling.

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D224. *Dr. B. R. Ambedkar :* I just want to turn to some other matters which have been discussed in your paper. I think you are proceeding upon the basis that these people should under no circumstances come within the purview of the new constitution

Dr. J. H. Hutton: That is so.

D225. *Dr. B. R. Ambedkar :* That is the hypothesis and the basis upon which you are proceeding ?

Dr. J. H. Hutton: I admitted that in some circumstances where they are very scattered living among other populations, it would be otherwise.

D226. *Dr. B. R. Ambedkar:* But in the main, that is the hypothesis upon which you are proceeding ?

Dr. J. H. Hutton: Yes, in the main.

D227. *Dr. B. R. Ambedkar:* What is the ideal that you have before you for these people ? I will crystallise my question so that you may answer it better.

Dr. J. H. Hutton: The minimum of interference by anybody.

D228. *Dr. B. R. Ambedkar:* Let me put it in the way I visualise the question. Is it your ideal that these primitive people should continue to remain primitive people without having anything to do with the affairs of the rest of India, or do you propose that the destinies of these people should be so regulated that in course of time they should cease to be an isolated part of humanity and take part in the public affairs of their country as the rest of Indians are doing now ?

Dr. J. H. Hutton: I think that the second is my ideal.

D229. *Dr. B. R. Ambedkar :* That they should not continue permanently as primitive people ?

Dr. J. H. Hutton: The question would have to be that, if possible, ultimately they should take a part in the life of their country.

D230. *Dr. B. R. Ambedkar:* That is what I say ?

Dr. J. H. Hutton: But it is possible that in some cases you might never be able to achieve that ideal.

D231. *Dr. B. R. Ambedkar*: Let us, first of all, ascertain what the ideals are ?

Dr. J. H. Hutton: Yes.

D232. *Dr. B. R. Ambedkar*: I am not introducing the religious question at all, whether they should be this or that ?

Dr. J. H. Hutton: No.

D233. *Dr. B. R. Ambedkar*: What you do point out is this : You do say, and I think it is your ideal, that they should become part and parcel of the civil society ? *Dr. J. H. Hutton*: Yes.

D234. *Dr. B. R. Ambedkar*: And outgrow their tribal condition ?

Dr. J. H. Hutton: Yes, I think that is necessary.

D235. *Dr. B. R. Ambedkar*: Let me therefore proceed further. If that is the view, is it not desirable that there should be a common cycle of participation both for the civilised people of India and for these primitive people ?

Dr. J. H. Hutton: Not yet.

D236. *Dr. B. R. Ambedkar* : So that there may be a percolation of the ideas which are agitating the minds of the civilised part of Indian society into this primitive class of people ?

Dr. J. H. Hutton: I think the ideas will percolate without any difficulty.

D237. *Dr. B. R. Ambedkar* : How ?

Dr. J. H. Hutton: What troubles me is that unless they are separated they are likely to be destroyed by too abrupt contact. That is what has happened nearly everywhere else in the world.

D238. *Dr. B. R. Ambedkar*: I do not know but I do want to submit to you for your consideration whether if, as you have admitted, that is your ideal, namely, that they shall some day become part of the Indian society, segregation, and so complete and so rigid a segregation as you propose, is the proper way for the realisation of that ideal ?

Dr. J. H. Hutton: I think it is the only possible one myself.

D239. *Sir Reginald Craddock*: Might I put a question ? There are various educational agencies going on in some of those tribes. Is not that the case ?

Dr. J. H. Hutton: Yes, certainly....

D240. *Sir Reginald Craddock*: Are they chiefly missions, or has the Government any schools ?

Dr. J. H. Hutton: The Government has a number of schools.

D241. *Sir Reginald Craddock*: That would be one of the points that you would refer to in connection with the improvement of these classes would not you ?

Dr. J. H. Hutton : I should.

D242. *Dr. B. R. Ambedkar*: I want to proceed a little further. I see from your paper (correct me if I am wrong) that you are troubled about two things. You

think that a contact or incorporation, if I may use that term, of the educated or the advanced or the civilised Indians, and of the primitive people in one constitution is likely to result, first of all, in their exploitation by the advanced classes or shall I say, the civilised part of the Indian society ?

Dr. J. H. Hutton: Yes.

D243. *Dr. B. R. Ambedkar:* Secondly, I suppose I am right in summarising it thus, that you are afraid that sufficient attention will not be paid to them in the new Council ?

Dr. J. H. Hutton: Yes.

D244. *Dr. B. R. Ambedkar:* Let me put to you one question. I will take the case of their land. Is it not a fact that this question, namely, of keeping the land in the hands of the primitive people as far as possible that they may not be rendered a class of landless labourers, is also the problem which is before many of the agricultural classes in India and that even for their protection it has become necessary to pass Acts like the Deccan Agricultural Relief Act in Bombay and the Alienation of Land Act in the Punjab and several other cases ?

Dr. J. H. Hutton : I believe such Acts have been passed.

D245. *Dr. B. R. Ambedkar :* My suggestion is this, that if these primitive people are brought under the same constitution as the rest of India they would not be quite alone in their demand for keeping the moneylender out and seeing that the land remains in the hands of those who cultivate it. "There would be many others who would have a similar demand to make in the Legislature. The point I want to make is that they would not be isolated ?

Dr. J. H. Hutton: The point which I should be inclined to answer was that the proof of the pudding was in the eating, and, as far as experience went, it has shown that they always have been done out of their land.

D246. *Dr. B. R. Ambedkar:* But, Dr. Hutton, would you mind making this distinction, that the Legislatures, as they are composed today, and as they were composed some time ago, are not going to be the same as the Legislatures that will be composed under the White Paper ?

Dr. J. H. Hutton: Yes.

D247. *Dr. B. R. Ambedkar:* You would have a certain amount of representation drawn from the general electorate who would favour the poorer classes. The experience of the last Legislatures would be no safe guide in a matter of this kind?

Dr. J. H. Hutton : I would sooner be on the safe side and exclude them.

D248. *Dr. B. R. Ambedkar :* I do not know, but you are not prepared to deny the fact that they would have many friends in the Legislature ?

Dr. J. H. Hutton: I would not admit that. I should like to be convinced first

that they would have many friends. There may be others with similar interests, but they would have very little in common with them individually.

D249. *Dr. B. R. Ambedkar:* Yes, but I mean so far as the general question of protection for a class similarly situated is concerned ?

Dr. J. H. Hutton: I can conceive that a Musselman cultivator in Sihat would demand the maximum of protection for himself and the maximum of non-protection for his neighbours.

D250. *Dr. B. R. Ambedkar :* Do you think the Legislature would go to the length of saying that certain laws which are necessary in the interests of Indians are not to be extended, and that the protection of those laws is not to be given to the primitive classes ?

Dr. J. H. Hutton: No, I do not think they would go as far as that.

D251. *Dr. B. R. Ambedkar:* How would the discrimination arise?

Dr. J. H. Hutton: I think the primitive classes might have extreme difficulty in obtaining the necessary protection. There is no guarantee with the depressed classes that the cultivator will obtain the necessary protection under the new constitution.

D252. *Dr. B. R. Ambedkar:* Quite true; I agree with you. There can be no protection that the other classes probably would not club together and prevent protection being given to some other minorities ? The fear is legitimate, but taking into calculation all the forces on the one side and all the forces on the other, the point I want to make to you is that the fear, that one or two, or a few representatives of the primitive classes in the Provincial Council will feel that they are overwhelmed by the forces on the other side, is not quite justified by an analysis as I am presenting it to you of the composition of the future Legislatures as it will be under the White Paper proposal ?

Dr. J. H. Hutton: In view of the difference of race, I think it is possibly justified, at any rate in certain places.

D253. *Dr. B. R. Ambedkar:* Take the question again of education. I happen to know something about these primitive people in the Bombay Presidency. We have a backward classes ?

Dr. J. H. Hutton: Yes, I know.

D254. *Dr. B. R. Ambedkar:* We ourselves are not very far divided from them ? *Dr. J. H. Hutton:* I know.

D255. *Dr. B. R. Ambedkar:* Educationally speaking, one could not really say that a good many people in India are in less need of education than the primitive or the backward people ?

Dr. J. H. Hutton: You could not say what ?

D256. *Dr. B. R. Ambedkar :* You could not say (take, for instance, the depressed classes) that bare educational need is less ?

Dr. J. H. Hutton: You could not say that it was less.

D257. *Dr. B. R. Ambedkar :* One could not say it ?

Dr. J. H. Hutton: No.

D258. *Dr. B. R. Ambedkar :* I have been sitting on the backward class board in Bombay, which is a composite board for the depressed classes and these primitive people ?

Dr. J. H. Hutton: Yes, in certain cases the primitive people are very much more educated.

D259. *Dr. B. R. Ambedkar :* Therefore, as I say, taking their educational need, in the Legislative Council, they would not find themselves isolated ?

Dr. J. H. Hutton: They might do.

D260. *Dr. B. R. Ambedkar:* You would desire that they should be completely excluded, and their need, such as education, which I think is the greatest need of these people should be met entirely by revenues supplied by the Governor under his special responsibilities ?

Dr. J. H. Hutton: Yes.

D261. *Dr. B. R. Ambedkar:* I want to put this to you: whether a Governor would at all go to the length of providing what he thought was a sufficient amount of funds for the education of the primitive classes if his Ministers did not support him?

Dr. J. H. Hutton : That is a serious difficulty.

D262. *Dr. B. R. Ambedkar:* If there is something in the point that I have put to you, would not it be desirable that some representatives of these people should *be* in the Legislative Council so that a Minister may be dependent upon their votes, and may be amenable to their wants ?

Dr. J. H. Hutton: An odd vote or two would not be likely to affect a Minister.

D263. *Dr. B. R. Ambedkar:* I do not say one or two. You may have a small number, but, assuming they have adequate representation in the Legislature, would not the Minister be dependent upon their votes, and, therefore, he might be more amenable to their wants ?

Dr. J. H. Hutton: Theoretically, but not in practice. Their numbers would be so small.

Dr. B. R. Ambedkar: In politics a single vote might turn the balance.

D264. *Lord Eustace Percy:* I thought Dr. Hutton's recommendation was that they should be excluded from the purview not only of the Province but of the Governor also, and that they should be administered from the centre. Is not that so ?

Dr. J. H. Hutton: That is what I should, on the whole, prefer. I have stated in my memorandum that in the case of the proposals of the White Paper for the totally excluded areas in which the Governor acts as the agent of the

Governor-General, the White Paper proposal is satisfactory. I do not say I should prefer it.

D265. *Lord Eustace Percy*: I thought from your proposals for setting up petty States that you intended that it should as far as possible be a central function ?

Dr. J. H. Hutton: My intention was that it should be central as far as possible, certainly.

D266. *Dr. B. R. Ambedkar*: Even in that case, the criticism I have offered would be equally applicable even if the subject was made central, because the Governor would have to certify the amount necessary for the administration of the subject and, if the Ministers in the Central Government objected to spending that amount of money, the conflict would still be there; it would only be transferred from the Provincial Field to the Central Field ?

Dr. J. H. Hutton: I am assuming the Minister would not have a word in it.

Dr. B. R. Ambedkar: But my point is that the Minister would have a word, because there would be other rival claims for the expenditure, and a Minister cannot be expected to be interested in primitive peoples who are not part of the Legislature.

Dr. Shafa'at Ahmad Khan: Would not the representatives of the primitive people in the Legislature generally combine with the depressed classes ?

D267. *Dr. B. R. Ambedkar*: That is what I am visualising, and, therefore, they would have many friends.

Dr. J. H. Hutton: I do not think the representation would be affected.

D268. *Dr. B. R. Ambedkar* : If I felt as pessimistic as you feel I should at once say : " I do not want this constitution at all"?

Dr. J. H. Hutton: But I do not, for the primitive tribes.

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D284. *Major Attlee*: I do not think the Simon Commission recommended the forests from your point of view at all. The forests were recommended by the Simon Commission to be transferred ?

Dr. J. H. Hutton: No. I put that forward as a suggestion for the economical administration of an excluded area.

Lord Eustace Percy : Perhaps Dr. Hutton will deal with this difficulty, because I do not understand what a totally excluded area is in which the provincial forest official and the provincial forest policy prevails.

D285. *Dr. B. R. Ambedkar* : If I may say so, the area is not excluded, it is the people who are excluded ?

Dr. J. H. Hutton : No, the area is excluded, as I read the White Paper. Is there any definition of a totally excluded area in the White Paper ?

**The Right Honourable Sir Winston Spencer Churchill, C.H. Member of
the House of Commons**

14,681. *Dr. B. R. Ambedkar:* Mr. Churchill, the White Paper does not propose to establish Dominion Constitution ?

Sir Winston Churchill: No.

14,682. *Dr. B. R. Ambedkar:* Therefore I do not propose to trouble you with any questions with regard to the logical and metaphysical position, whether one could draw a distinction between Dominion Status as a ceremonial affair and Dominion Status as a Dominion Constitution. I propose to ask you just one or two questions with regard to the White Paper itself without confusing the issue by bringing in anything with regard to the distinction that you propose to make. May I draw your attention, therefore, to the debate that took place in Parliament on December 1st, 1931, when the Prime Minister moved the resolution; it was in these terms : " That this House approves the Indian policy of His Majesty's Government as set out in Command Paper No. 3972 — Indian Round Table Conference — presented in Parliament on the 1st December, 1931." That is the first White Paper-not the full scheme ?

Sir Winston Churchill: You mean the Prime Minister's speech ?

14,683. *Dr. B. R. Ambedkar :* The Prime Minister's speech.

Sir Winston Churchill : Quite.

14,684. *Dr. B. R. Ambedkar:* The Constitution adumbrated in the White Paper which was presented to the House included in the main the proposals which are contained in the White Paper as it is presented to the Joint Select Committee. There was to be Provincial responsible government in the Provinces with the transfer of Law and Order, and there was to be a sort of dyarchy at the Centre, in which Defence and Foreign Relations were to be reserved subjects. Is that right?

Sir Winston Churchill: I find no need to interrupt you at this point.

14,685. *Dr. B. R. Ambedkar :* Then the next point I wish to ask about this. The Prime Minister made his object clear in moving this resolution in the House of Commons. I am reading his words : "the statement which I made to the Round Table Conference yesterday had the full authority of the Cabinet, and we now wish, having communicated that statement to the House, to ask the House by its vote to associate itself with that policy." That was the object of the Prime Minister in moving this resolution in the House of Commons. Now, as you know you moved an amendment to the resolution. That amendment was in these terms : " Mr. Churchill : I beg to move in line 3 at end to add the words, provided that nothing in the said policy shall commit this House to the establishment in India of Dominion Constitution as defined by the Statute of Westminster; provided also that the same policy shall

effectively safeguard the British trade in and with India from adverse or prejudicial discrimination, and provided further that no extensions of self-government in India at this juncture shall impair the ultimate responsibility of Parliament for the peace, order and good Government of the Indian Empire."

14,686. *Dr. B. R. Ambedkar* : The impression that I have formed, after reading this debate that took place in the House of Commons on the 3rd December 1931, was this, that if the Prime Minister had accepted your amendment you were willing to vote with the Government in support of the resolution moved by the Prime Minister. Is that correct ?

Sir Willston Churchill: I think it very difficult to say what would have happened in these hypothetical circumstances, but, undoubtedly it would have been a very great relief to the great mass of Conservative Members in the House of Commons if the Government had seen eye to eye with those who supported me in that amendment—a very great relief, and altogether more agreeable atmosphere would have followed immediately and would have been created.

14,687. *Dr. B. R. Ambedkar*: Fortunately for me, I do not think the matter is really hypothetical because I find you have taken a very definite attitude with regard to your amendment in the course of that debate and I want to call your attention to one or two statements you made in the course of your speech. I think the one fact which has puzzled me, I must admit, is that, first of all, according to the impression of most Members then present in the House, there was really no distinction between what the Government was asserting and what you proposed to state in your amendment. Is it not so ? Let me read a passage of yours. The point I want to make is this : A subject which has always puzzled me is this, that having read the statement of the Prime Minister and the amendment which you proposed to move on that day in the House of Commons, I, at any rate, did not see any distinction, and that, I say, was your position as well, because I propose to read a passage which will make it clear. You say at column 234: "I have finished and I am most grateful to the House for permitting me to intrude for so long upon their attention. What can we do but to preserve with our amendment. It is not a vote of confidence in His Majesty's Government " and this is the important point, " On the contrary, it merely asserts the principles which they themselves affirm and which both the Prime Minister and the Secretary of State have affirmed." So you yourself really saw no distinction between the proposals as put forth in the statement of the Prime Minister and the substance of your amendment ?

Sir Winston Churchill: Of course, I thought it was unfortunate that the Government did not take proper view of the proposal. I should have been very glad to get that amendment on the paper.

14,688. *Dr. B. R. Ambedkar:* Let me quote another passage of what you said on the same day. You said your second alternative to the Government on that day was that if your amendment was not accepted you would be content to vote with the Government provided the pronouncement of the Prime Minister was accompanied by the speech of the Secretary of State that was made on that day in the House of Commons ?

Sir Winston Churchill: Yes.

14,689. *Dr. B. R. Ambedkar:* My point is this : If that is your position, namely, that you were content to vote with the Government on that particular debate, provided the Prime Minister's announcement was accompanied by the speech made by the Secretary of State in the House of Commons, what I wish to understand from you is this : What is the difference between the White Paper as it is presented to this Committee and the statement of the Prime Minister combined with the speech of the Secretary of State ? Could you give us any difference that you see between the White Paper as presented to the Committee and the pronouncement of the Prime Minister as interpreted by the Secretary of State in the House of Commons ?

Sir Winston Churchill: In the case of a difference which arises in a Parliament or in a House of Commons between two sides of a debate, it is difficult for outsiders to appreciate what the difference was unless they understand all the circumstances which influence and affect our debates, but that there was a great and real difference between the amendment which I sought to have put upon the paper and the resolution which the Government passed over our heads is indisputable. There was a sharp difference. Each side naturally presents its case in the manner least likely to deter support, but the difference is there all the same and remains quite clear, and I do not suggest to Dr. Ambedkar that in justice to our Parliamentary institutions, he should remember that we still have a bicameral Parliament and that the debates in the House of Lords must be read in conjunction with those in the House of Commons.

14,690. *Dr. B. R. Ambedkar:* If I may say so respectfully, I wish to understand your position alone, irrespective of the position of the House of Lords or other members of the Party. You stated definitely that you would vote with the Government, provided the Prime Minister's statement was issued in conjunction with the speech made by the Secretary of State. The point which I wish to submit to you respectfully is this : Do you see any difference in the White Paper as presented to the Joint Parliamentary Committee, and the statement by the Prime Minister as interpreted that day by the Secretary of State in the House of Commons ? If there is, of course, you have every ground to differ ?

Sir Winston Churchill: I can assure Dr. Ambedkar that I have never been in favour of a federal system being erected at this time at the Centre of India nor of transferring law and order in the Provinces, and nothing that I have ever said in this controversy is in conflict with that.

Dr. B. R. Ambedkar: I have no more questions to ask.

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14,945. *Dr. B. R. Ambedkar :* My Lord Chairman, may I ask a question with your permission ? *Chairman:* If you please.

14,946. *Dr. B. R. Ambedkar:* I just want to ask you one question, Mr. Churchill. Do you make any distinction between responsible government and Dominion Status ?

Sir Winston Churchill: Oh, yes. Responsible government has many interpretations, many that we know in practice and we have seen. Responsible government may mean serious, real, important functions transferred to the discretion of a Provincial, or local body, or it may mean the various degrees of responsible government which have a technical understanding in the language of the Dominions and Colonial Offices, namely. Ministers responsible to the Assembly and so forth, but there are very considerable gradations in the history of our outlying Dominions and Empire in the exact form of institutions, which would be covered by the term "responsible government".

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15,147. *Dr. B. R. Ambedkar:* Would you agree that the masses should be given adult suffrage ?

Sir Winston Churchill: No. 15,148.

Dr. B. R. Ambedkar: Why not ?

Sir Winston Churchill: Because I think it quite impracticable.

(18)

Lieut.-Colonel Sir Henry Gidney, M.L.A., I.M.S. (Retired), on behalf of the Anglo-Indian and Domiciled European Association of India

16,241. *Dr. B. R. Ambedkar:* I realise from your Memorandum that you are very apprehensive of what may happen to your community under the new Constitution. I believe your apprehensions are shared by many other minorities. Therefore, the question I want to put to you is this : Would it serve any purpose which you have in view if a provision was made in the Constitution that there should be some officer or some Department in the future Central Government of India which was charged with the statutory duty of presenting to Parliament annually a Report on the moral and material condition of the various communities in India ? Do you think that proposal

would be of any use to your community in drawing the attention of Parliament to anything that may have occurred in the course of the administration of various provinces affecting your material interests?

Sir Henry Gidney: That proposal meets with my entire approval as the *ultima thule* of what would be the protection of minorities, but, as a preliminary canter to that the minorities, in my humble submission, demand protection not in so far as someone can report to the Houses of Parliament annually, but a practical protection.

16,242. *Dr. B. R. Ambedkar:* Let me make myself clear. What I am suggesting is not in substitution of what you are asking; it may be supplemental to what you are asking ?

Sir Henry Gidney : Yes.

16,243 *Dr. B. R. Ambedkar:* Do you agree with me that this opportunity, or this method of exposing possible abuses of power in itself serve as a check against any possible abuse ?

Sir Henry Gidney : I certainly think it would be a means of bringing to the Houses of Parliament anything in the way of a prejudicial effect on Communities.

16,244. *Dr. B. R. Ambedkar :* Not merely yours, but of many others ?

Sir Henry Gidney : Of all minorities.

Mr. Zafrulla Khan: What would Parliament be expected to do there" upon ?

Dr. B. R. Ambedkar: It would lie there. Parliament would take note of the various Governments. Not only should the Governor-General know, but Parliament should know how the various Governments are executing their responsibilities to the various minorities which are placed under their charge.

Sir Hari Singh Gour : And you would call that Provincial autonomy ?

Dr. B. R. Ambedkar: Yes; I certainly would.

(19)

Mr. J. C. French and Mr S. H. Mills on behalf of Indian Police

16,904. *Dr. B. R. Ambedkar:* Mr. Mills, there is just one question I should like to ask you, because I am rather interested in getting your view of this matter. You stated somewhat emphatically that under the proposed Constitution in Bengal, Muslims and the Depressed Classes would be under the influence of the Congress ?

Mr. S. H. Mills: I think there is every chance of their being under the influence of the Congress—a percentage of them.

16,905. *Dr. B. R. Ambedkar:* You said about 20 of the Depressed Classes ?

Mr. S. H. Mills: Yes.

16,906. *Dr. B. R. Ambedkar:* I suppose it is not your suggestion that as it is

today there are any Depressed Classes or there are any Muhammadans who are in sympathy with the terrorist movement ?

Mr. S. H. Mills: We have quite a large number of Depressed Classes who have been arrested as terrorists.

16,907. *Dr. B. R. Ambedkar:* From what community?

Mr. S. H. Mills: We have had some from peculiar communities and there have been a number of Shahas ; then from Midnapore quite a number of the Depressed Classes have been arrested—particularly Midnapore.

16,908. *Dr. B. R. Ambedkar:* Shaha is not a scheduled caste of the Depressed Classes ?

Mr. S. H. Mills: No. In the Midnapore district there have been quite a number of the Depressed Classes who have been arrested.

16,909. *Dr. B. R. Ambedkar :* Now the next point that I want to draw your attention to is this: May I just put it? Is it your experience, for instance, that a large community like the Namasudras in Bengal are in any way connected with the terrorist movement ?

Mr. S. H. Mills : Yes, they are.

16,910. *Dr. B. R. Ambedkar:* The next question that I want to ask you is this : You know that under the White Paper proposals the minorities of Bengal have separate electorates ?

Mr. S. H. Mills: Yes.

16,911. *Dr. B. R. Ambedkar:* Do you still think that, notwithstanding the separate electorates, the Congress will have any influence in the election of the members of these communities ?

Mr. S. H. Mills: I think it is highly probable.

16,912. *Dr. B. R. Ambedkar:* How would that influence be felt ?

Mr. S. H. Mills: Because the Congress having the terrorists behind them is very greatly feared in the Province, and that fear would tend to dominate them.

(20)

**Secretary of State for India's Evidence before the Joint Committee on
Indian Constitutional Reform**

The Right Hon. Sir Samuel Hoare, Bt. G.B.E., C.M.G., M.P., Sir Malcolm Hailey, G.C.S.I., G.C.I.E., and Sir Findlater Stewart, K.C.B., K.C.I.E., C.S.I.

6394. *Dr. B. R. Ambedkar :* I have not followed it. I think even under Proposals 92 and 95, although the Legislature may be in Session, the Governor will not be bound to put his legislation before the Legislature if he so thinks ?

Sir Samuel Hoare : That is perfectly true. The Governor has full discretion.

6395. *Dr. B. R. Ambedkar* : The Governor has full discretion ?

Sir Samuel Hoare : Whether for ordinances or for legislation, on his own initiative.

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6440. *Dr. B. R. Ambedkar* : I want to pursue this point a stage further. You said that would depend on the circumstances of the case. That was not the question of Sir Tej Sapru. The question is, is this Clause wide enough to give the power to intervene and say : " No, this will interfere with peace and tranquillity, and I will not allow you to introduce this legislation " ?

Sir Tej Bahadur Sapru: The Clause is merely wide enough to allow the Governor to take action if he is convinced that it will lead to a grave menace to the peace and tranquillity of the Province, not mere that he thinks such legislation is undesirable in the interests of one class or another.

6441. *Dr. B. R. Ambedkar* : If he comes to that conclusion this clause is wide enough for him to say : " I will not allow you to proceed with such legislation " ?

Sir Samuel Hoare: I can only say we have had in the United Provinces within the last two years the menace of very grave trouble indeed arising out of the agrarian situation, and dealing with the rental question. There was a stage then when, in my opinion, this clause would undoubtedly have applied, but it would have applied because there was threatening of actual risings of tenants in certain parts of the Province. I would not have held that it would have applied if it had been merely the case that one class or other would have been prejudicially affected by the Legislature.

6533. *Dr. B. R. Ambedkar* : I want to know whether the Secretary of State desires me to reserve any questions upon Second Chambers for the Provinces ?

Sir Samuel Hoare: I would suggest, so far as the Constitution of the Second Chambers goes (the membership), perhaps it would be better to take that with the franchise generally.

6534. *Dr. B. R. Ambedkar*: This franchise question ought to be excluded at this stage ?

Sir Samuel Hoare : Whatever the Committee thinks, I should have thought it came better into the franchise.

Dr. B. R. Ambedkar: I will not ask any questions of the Secretary of State.

Chairman: I think the Secretary of State's suggestion is a practical one. I hope you will not put questions at this stage.

6535. *Dr. B. R. Ambedkar*: I was going to ask the composition of the Second Chamber. Would it be better to reserve it ?

Sir Samuel Hoare: Yes, I think perhaps that would be better.

6536. *Dr. B. R. Ambedkar:* You said in the course of a reply to a question put last time, that you contemplated that in the Provinces the Ministers could be drawn from either Chamber, both the Lower and the Upper ?

Sir Samuel Hoare : Yes.

6537. *Dr. B. R. Ambedkar :* You remember that in the Second Chamber, as suggested in the White Paper, there are to be 10 nominated Members ?

Sir Samuel Hoare : Yes.

6538. *Dr. B. R. Ambedkar :* Is it the proposal that these 10 nominated members who will sit in the Upper Chamber will also be eligible for being Ministers ?

Sir Samuel Hoare: Yes, I would not draw any distinction between them and the others.

6539. *Dr. B. R. Ambedkar :* The nominated members would be eligible for being Ministers ?

Sir Samuel Hoare : Yes, certainly; that is how I conceive it to be.

6540. *Dr. B. R. Ambedkar:* In the present Government of India Act there is a distinct provision that any member who is a nominated member of the Provincial Legislature is not eligible for being a Minister ?

Sir Samuel Hoare: I take it from Dr. Ambedkar that is so.

6541. *Dr. B. R. Ambedkar :* I stand subject to correction, but I believe that is the position ?

Sir Samuel Hoare : Yes.

6542. *Dr. B. R. Ambedkar :* So you are really introducing the very important change by allowing nominated members in the Upper Chambers to be Ministers in the new Government ?

Sir Samuel Hoare: It is, of course, a very different kind of Government.

6543. *Dr. B. R. Ambedkar :* I am not going into the reasons, but I am only stating the facts ?

Sir Samuel Hoare : Yes. I think there is a great deal to be said for giving the Governor a free choice, always assuming. Dr. Ambedkar, that the Cabinet is collectively responsible and there would be no intention of imposing a Minister against the wish of the Cabinet in case of this kind.

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6549. *Sir Tej Bahadur Sapru :* Is Sir Samuel right in conceding that the present Government of India Act makes a distinction between elected and nominated members for appointment as Ministers ?

Sir Malcolm Hailey : It was new to me, but I took it from Dr. Ambedkar.

Dr. B. R. Ambedkar: I used it in the sense that it must be 'an elected member within six months.

Sir Tej Bahadur Sapru : So far as I can see the Government of India Act makes no distinction between elected and nominated members for the purpose of appointment as Ministers. The Section which deals with that matter is Section 52.

Dr. B. R. Ambedkar: He has to get himself elected.

6550. *Sir Tej Bahadur Sapru*: I thought Dr. Ambedkar put it to Sir Samuel, and suggested that the Government of India Act makes a distinction between elected and nominated members in the matter of being Minister ?

Sir Malcolm Hailey: It only does so to the extent of laying down that a Minister shall not hold office for a longer period than six months unless he becomes an elected member.

6551. *Sir Tej Bahadur Sapru* : But if there is a nominated member there already, there is nothing to prevent you from appointing him Minister ?

Sir Malcolm Hailey : That is so.

6552. *Sir Tej Bahadur Sapru* : And that has been done ?

Sir Malcolm Hailey : Yes.

Sir Tej Bahadur Sapru: The law, as I understand it, is this: It is open to the Governor to appoint any outsider a Minister, provided that outsider gets elected to the Legislative Council within a period of six months. Similarly, it is open to the Governor to appoint a Minister from the block of nominated members who are already there. The Act does not make any distinction.

6553. *Mr. Zafrulla Khan* : Once a nominated member is appointed, does he continue to be nominated member all the time or must he seek election ?

Sir Samuel Hoare: No, I thought that was quite clear. A nominated member is treated just like anyone else.

Dr. B. R. Ambedkar: He cannot continue to be a Minister after six months unless he gets elected.

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6558. *Dr. B. R. Ambedkar* : May I read the section ?

Sir Samuel Hoare: Does it really very much matter with what the position is now?

6559. *Dr. B. R. Ambedkar* : It matters because I want to ask what the exact position is. Section 52, sub-section 2 is : " No Minister shall hold office for a longer period than six months unless he is or becomes an elected Member of the Local Legislature." All I wanted to suggest was that the Act does not contemplate the continued holding of a nominated member as a Minister, which would be the case if the suggestions in the White Paper were adopted, that a nominated Member of the Second Chamber would be entitled to be a Minister. With respect to the appointment of the Ministry, I want to draw your attention to the recommendation of the Sub-Committee on Provincial

Constitution. They said: " The Sub-Committee is of the opinion that in the discharge of that function the Governor should ordinarily summon the Member possessing the largest following in the Legislature and invite him to suggest the Ministers and submit their names for approval." Paragraph 67 says that he shall make "his best endeavours to select his Ministers in the following manner"—which I regard as a considerable departure from the recommendation of the Provincial Constitution Committee ?

Sir Samuel Hoare: I do not think there is any departure at all. The Committee said ' ordinarily ', and this is, I imagine, what will ordinarily happen.

6560. *Dr. B. R. Ambedkar:* You do not think it would be necessary, in the interests of fostering collective responsibility, to impose an obligation upon the Government that he should follow a particular course in the formation of the Ministry ?

Sir Samuel Hoare: The Round Table Committee that Dr. Ambedkar quotes did not think so.

6561. *Dr. B. R. Ambedkar:* I thought that was the thing ?

Sir Samuel Hoare: You have just read a quotation from them saying " ordinarily " they thought so.

6562. *Dr. B. R. Ambedkar:* Or that they should do it—not "best endeavour " ?

Sir Samuel Hoare: It is a question of words.

6563. *Dr. B. R. Ambedkar :* The next question I want to ask is on the question of this ordinance power of the Ministers under Proposal 104. What I want to know is this : Why is it necessary to make a provision of this sort in the Constitution itself ? Would not it be possible for a Ministry in a Provincial Legislature to have an Emergency Act passed by the Legislature itself similar, for instance, to that of 1920 in this country, and to derive its powers from the Acts passed by the Legislature ? I am talking about No. 104 : Would not it be possible for the Provincial Ministry to have an Act passed by the Provincial Legislature giving them the necessary powers to act in a specified emergency ?

Sir Samuel Hoare : I should have thought this was essentially a power that every government must possess, namely, of taking emergency action when the Legislature is not sitting and particularly necessary in a country like India where there are great distances and where it may take some time to get the Legislature sitting.

6564. *Dr. B. R. Ambedkar:* I suggest the Provincial Ministry can get an Act passed from the Provincial Legislature defining the emergencies in which they may be called upon to act, and the Legislature may give them the powers. Why is it necessary to make a provision of this sort in the Constitution itself?

Sir Samuel Hoare: Because I regard it as an essential power that a Government should have, and as we are dealing with the whole field of the Constitution it is the kind of power that ought to be inserted in the Constitution Act.

Dr. B. R. Ambedkar: It is a power that is intended to be given to a responsible Ministry and it is, in the nature of things, that the responsible Ministry should draw its powers, whether emergency or otherwise, from the Legislature to which it is responsible.

Lord Eustace Percy: May I remind Dr. Ambedkar that the Act of 1920 in this country only regularized a power which Ministers frequently exercised in the past without legislation ? It has always been the practice in this country, that, subject to be a sequent Parliamentary indemnity, a Ministry can issue an Emergency Order.

Dr. B. R. Ambedkar: That is all I ask.

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6870. *Sir Hubert Carr:* No. 44 gives the Governor-General power in his discretion, " in any case in which he considers that a Bill introduced, or proposed for introduction, or any clause thereto, or any amendment to a Bill moved or proposed would affect the discharge of his ' special responsibility ' for the prevention of any grave menace to the peace or tranquillity of India, to direct that the Bill, clause or amendment shall not be further proceeded with." That, I understand, is only in the case of his special responsibility for the peace or tranquillity of India being threatened. Does any such power exist for him in the case of his other special responsibilities being threatened ?

Sir Samuel Hoare: No, I think not.

6871. *Sir Hubert Carr:* For instance, (b): "The safeguarding of the financial stability and credit of the Federation " ?

Sir Samuel Hoare : No ; it is limited to the special responsibility for grave menace to peace and tranquillity.

Sir Malcolm Hailey : I think I could give Sir Hubert the reason for that. It is a practical repetition of Section 67 (2a) of the existing Act which only refers to the safety and tranquillity in British India, and it has been repeated almost in terms.

6872. *Sir Hubert Carr:* It is not considered necessary to give the Governor-General that power to prevent his responsibilities being threatened other than peace and tranquillity ?

Sir Findlater Stewart: No. He could, of course, refuse his assent to the Bill as passed by the House.

6873. *Sir Hubert Carr:* But he cannot stop the discussion ?

Sir Findlater Stewart : No.

Dr. B. R. Ambedkar: I would like to reserve my questions for the Secretary of State because they are questions of policy.

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7016. *Dr. B. R. Ambedkar :* Arising out of the questions that were put by Mr. Morgan Jones regarding the pledges, you stated that no responsible statesman in this country has bound himself to time and pace. Is that so ?

Sir Samuel Hoare : Yes.

7017. *Dr. B. R. Ambedkar:* But I think there is a general agreement that the ultimate goal of India's Constitution is to be Dominion status ?

Sir Samuel Hoare: It has constantly been so stated.

7018. *Dr. B. R. Ambedkar :* So that on the question of the ultimate goal, there is really no dispute ?

Sir Samuel Hoare: That would be so, yes.

7019. *Dr. B. R. Ambedkar:* Now what I want to ask you is this : In view of that, would you be prepared to put this in the Preamble to the Government of India's Constitution that India would be Dominion status, leaving the question of the time and the pace to be determined by circumstances as they arise ?

Sir Samuel Hoare: I do not think here and now I would like to give a pledge as to what is or is not put in the Preamble of, an Act of Parliament. I, myself, am prejudiced against Preamble of Acts of Parliament, for reasons good or bad, and I would rather say neither yes nor no to Dr. Ambedkar's question. It is a point that ought to be considered by the Committee. I would not regard it as a question of principle, one way or the other; I think it is essentially a matter for discussion. Upon the face of it, I am against these general declarations in Preambles.

7020. *Dr. B. R. Ambedkar:* I want to say this, that this is not a point in dispute now, and, in view of the fact that it would have a reassuring effect on the Indian people, it would be desirable to have this embodied in the Preamble to the Government of India Act ?

Sir Samuel Hoare: We must take note of what Dr. Ambedkar has said upon the point.

7021. *Dr. B. R. Ambedkar:* Now the next question that I propose to ask you is with regard to the date of the Federation : that in view of certain uncertain elements connected with the entry of the Princes into the Federation, it was not desirable to give a date for the inauguration of the Federation. Now the point that I propose to put to you is this : What would you say to a proposal like this—1 am making it as my own : Supposing you started the Federation without waiting for the Princes, and had a nominated bloc appointed by the Viceroy or the Governor-General, it may be officials or non-officials, it may be

partly from officials and partly from non-officials, and then inaugurate your Federation, and then, as the Princes come in, eliminate the nominated bloc to make room for such Princes as begin to come in ? Have you any objection to a proposal of this sort ?

Sir Samuel Hoare: Yes, I have several objections to it. I think that, perhaps, the strongest that occurs to me offhand is that it is a completely new one. Here for the last three years we have been considering no other kind of Federation than an All-India Federation, with the Princes adequately represented in it.

7022. *Dr. B. R. Ambedkar :* Quite true, but let me pursue this point ?

Sir Samuel Hoare: May I just finish my answer? Secondly, I would say, even apart from that every formidable objection, an objection that would mean that we should have to start all our discussions over again, there is the further objection that I do not see what is to happen supposing when you had got your nominated bloc. the Princes then do not come into the Federation at all.

7023. *Dr. B. R. Ambedkar:* I will put my next question. You want the Princes' representation as a stabilising element ?

Sir Samuel Hoare: No ; more than that. Dr. Ambedkar; I would not restrict myself to that at all. I want the Princes' accession for a number of reasons. I believe, quite apart from the stabilising element of the Princes' representation, they can bring into the Government of India many very valuable influences.

7024. *Dr. P. R. Ambedkar:* But my point is this, I am not making this suggestion as a permanent part of the Constitution. I am making the suggestion for the transitional period until the Princes come in. I am only trying to get over the difficulty that you would say would arise if the Princes do not make up their minds to come in a stated period. I am only trying to get over the difficulty as to date ?

Sir Samuel Hoare: I quite see that. None the less. with the best will in the world, I do see the very formidable objections that I have just mentioned to a transitional plan of this kind.

Nowab Sir Liaqat Hayat Khan: In any case, if I might interject, had that not better be brought out when you meet again, in the event of such a contingency arising. It has been promised that when a contingency arises we meet again. I think a suggestion of that nature would be more appropriate then rather than now.

Sir A. P. Patro: You will not be there when it comes.

Sir Samuel Hoare : I have always thought that it is really a great mistake, particularly for those who are really interested in setting up an All-India Federation, to concentrate upon setting up some kind of provisional government upon the assumption either that Federation is never coming into

existence, or that Federation is only coming into existence in the very indefinite future. I believe myself that Members of the Committee and Indian Delegates who make proposals of that kind, although they do not wish the result of their proposals to be in the least what it will be, are really putting Federation further and further into the distance. I only go on repeating my own opinion, and I must rely upon my British and Indian friends to see that time after time it is not misrepresented by our enemies outside.

Dr. B. R. Ambedkar: May I pursue this a little further. Do you think Federation is more important, or responsibility is more important ?

7025. *Sir Tej Bahadur Sapru :* Or neither ?

Sir Samuel Hoare: I do not see the point of Dr. Ambedkar's question.

7026. *Dr. B. R. Ambedkar :* My point is this : If you are not prepared to consider any alternative for a transitional period the conclusion is that there can be no responsibility unless there is Federation ?

Sir Samuel Hoare: Really now Dr. Ambedkar is raising issues that we have been discussing for three years. For three years we have assumed in every discussion we have had that these proposals are based upon a foundation of All-India Federation, and I am not prepared today, after three years of these discussions, to reopen this question.

Dr. B. R. Ambedkar: It is true. I do not want to pursue the matter. I *am* only suggesting an alternative for your consideration. I have two more questions to ask, but I do not know whether they will be within the ambit of the topic we are discussing. One is in relation to the qualifications of candidates for the Federal Upper Chamber.

Archbishop of Canterbury: I think that' would more properly come under franchise, would it not ?

Dr. B. R. Ambedkar: I would like to ask a question or two about financial safeguards.

Archbishop of Canterbury: I think that clearly comes within finance.

7027. *Dr. B. R. Ambedkar:* I want to ask a question or two about defence. You remember that the Sub-Committee on Defence in its report recommended that there should be a Military Council. I do not find any proposal in the White Paper dealing with that ?

Archbishop of Canterbury: For the very good reason that we do not think that is a constitutional proposal. It is an administrative proposal.

7028. *Dr. B. R. Ambedkar:* Are you going to have it?

Archbishop of Canterbury: I have always myself been in favour of having in India something in the nature of the Committee of Imperial Defence here. I believe in actual practice it will be found to be necessary. It is very important to bring not only the Defence Ministers, and the Defence officials, in touch

with Defence problems, but now that Defence covers so very wide a field of the life of a nation we have found here it is of great value to have a Committee of some kind in which the appropriate Ministers can be had in for specific discussions, and there is a strong body, not only of civil opinion, but also of military opinion in India that is in favour of the development of some such Committee as this, but essentially it is an administrative question rather than a question that can be dealt with in an Act of Parliament.

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7033. *Dr. B. R. Ambedkar:* With regard to the reserved subjects, you do not propose to make that part of the budget votable ?

Sir Samuel Hoare: That is so.

7034. *Dr. B. R. Ambedkar :* That is opposed to the theory of Reserved Departments as it exists now under the Government of India Act ?

Sir Samuel Hoare: It is based upon all our previous discussions and I thought, although there was a good deal of discussion at the Round Table Conferences about certain features of Defence, there was a very general agreement upon the point that the monies should not be votable.

7035. *Dr. B. R. Ambedkar:* Do you see any very great danger if the Legislative Assembly vote upon it, and the Viceroy had the power to certify, if he found any drastic cut was made ?

Sir Samuel Hoare : I think it is better in a matter of this kind, in which the responsibility of the Viceroy is clear and unquestioned, that whilst opportunities should be given for discussion, the necessary expenditure should be non-votable.

Dr. B. R. Ambedkar : The next question is with regard to the appointment of the commander-in-chief. I do not find any specific proposals dealing with that in the White Paper. Section 19 of the Government of India Act merely states that commander-in-chief shall be appointed by His Majesty by warrant under the Royal Sign Manual.

7036. *Sir Tej Bahadur Sapru:* It is a curious accident that in the present Government of India Act there is no reference to the appointment of the commander-in-chief. All it does is to provide that if the commander-in-chief is a Member of the Executive Council he should take precedence over the other Members of the Executive Council. White Paper or not, it is intended to continue the appointment of a commander-in-chief.

7037. *Dr. B. R. Ambedkar :* Section 19(7) of the present Government of India Act says : " The Commander-in-Chief of His Majesty's Forces in India is appointed by His Majesty by warrant under the Royal Sign Manual " ?

Sir Samuel Hoare: Yes; that would probably go on in much the same way.

7038. *Lord Irwin:* Is not the matter referred to in Proposal 6 at the foot of

page 39 of the White Paper ?

Sir Samuel Hoare : Yes, paragraph 6, page 39.

7039. *Dr. B. R. Ambedkar* : Paragraph 6 does not say how his appointment is going to be made — on whose advice ?

Sir Samuel Hoare : By the Crown.

7040. *Dr. B. R. Ambedkar* : On whose advice ?

Sir Samuel Hoare : The appointment is made by the Government here.

7041. *Sir Austen Chamberlain*: By His Majesty acting on the advice of Ministers at home ? *Sir Samuel Hoare* : Yes.

7042. *Dr. B. R. Ambedkar* : I look up the other day the Debates in the Legislative Assembly dated the 17th February, 1921 and Sir Godfrey Fell described the circumstances under which the Commander-in-Chief was appointed in these terms : " The appointment of the Commander-in-Chief is made by His Majesty the King on the advice of the Cabinet, and the Cabinet naturally turns to the Chief of the Imperial General Staff, the highest military authority in the British Empire, for advice." So the position is that the Commander-in-Chief under the present law or practice is appointed by the Cabinet on the advice of the Chief of the Imperial General Staff ?

Sir Samuel Hoare : He is not appointed by the Cabinet; he is appointed by the Crown, on the advice of the Prime Minister, or whatever it may be— the Secretary of State for India here.

7043. *Dr. B. R. Ambedkar*: The point I want to put to you is this : Do you think this practice is consistent with the new sort of Government we are contemplating, considering that Defence is to be largely a responsibility of the Indian people and the Indian Legislatures ?

Sir Samuel Hoare : I think it is quite inevitable with Defence a Reserved Department.

7044. *Dr. B. R. Ambedkar*: But it is also going to be a responsibility of the Indian people and the Indian Legislatures. How is the appointment of an important officer who is going to be in charge of a very important Department under the new Government, who is appointed not on the advice of the Secretary of State, not on the advice of the Governor-General, but on the advice of the Cabinet in consultation with the Chief of the Imperial General Staff, compatible with a Government whose Defence will be a responsibility of the Indian people ?

Sir Samuel Hoare: Surely, if Defence is a Reserved Department the Government to whom those Reserved Departments are responsible should make the appointment.

7045. *Dr. B. R. Ambedkar*: I can understand the Viceroy making this appointment; I can understand the Secretary of State making the appointment

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Sir Samuel Hoare: That is what it comes to

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7125. *Marquess of Salisbury :* Your plan, as I understand (or I ought to say the plan you prefer of three plans), was to add to the representation of the Princes already in the Assembly a proportion of the other Princes' representation on the same proportion as those already admitted. Is that so?

Sir Samuel Hoare : I do not know what Lord Salisbury means by saying " upon the same proportion as those already admitted."

7126. *Marquess of Salisbury :* I understand one of the States which came in would have say, 10 seats ?

Sir Samuel Hoare: I see what Lord Salisbury means. I think very likely it would work out on those lines.

7127. *Marquess of Salisbury:* There is only one other question I want to put as regards the Provincial distribution, that is to say, the distribution of seats in the Provinces. He is aware, of course, that there is a great deal of difference of opinion on that. I am not going into the difference of opinion, as to whether the communities are properly represented in Bengal under the Poona Pact. I am not going into it; but I am going to put this question to the Secretary of State : Whether he has any statement at all to make upon that subject ?

Sir Samuel Hoare : Upon the Communal decision of the Government ?

7128. *Marquess of Salisbury:* In the case of Bengal, I am speaking especially ?

Sir Samuel Hoare: No, I have nothing to add to the Memorandum that I circulated to the Committee and Delegates on the 26th May upon the Government's Communal decision. The Government made it quite clear that they regarded their decision as final and they were only prepared to accept a variation if it was clear to them that the variation had been agreed by the accredited leaders of the various communities; and, as a Member of the Government, I am not prepared to add anything further to that statement of Government policy.

Chairman: Secretary of State, do you desire to hand in the Memorandum to which you have just referred ?

Sir Samuel Hoare: Yes, the Memorandum is as follows : —

MEMORANDUM—COMMUNAL AWARD

I think it may be useful to my colleagues on the Joint Select Committee who have not been familiar with the developments leading up to the White Paper, if I give for their information a very brief account explaining the scope of what is known as the "Communal Award", the history of its origin, and why it stands, so far as the Government is concerned, on a different footing from the

other proposals in the White Paper.

2. Both the first and second sessions of the Round Table Conference found progress much impeded through the failure among the Indian delegates to reach mutual agreement both on the number of seats which the various great communities in India were to secure in the Legislature and on the method of election to those seats. The main issue as regards election was whether separate electorates were to be maintained or the system *of* joint electorates with reserved seats; employed. (For an explanation of these terms see paragraphs 149 and 150 of Vol. I of the Statutory Commission's Report). Repeated failure, after many attempts, to reach agreement on these problems had not only left this vital gap in the Constitution so far outlined, but was preventing some of the minority communities from proceeding any further with discussion of other aspects of the Constitution which had a communal bearing until they knew where they stood as regards their representation in the Legislatures.

3. Accordingly, in order to remove this obstacle to progress, the Government were very reluctantly compelled to give a decision on these points which was more or less of the nature of an arbitral award. The Government undertook to incorporate the provisions of the award in their proposals to Parliament. This award covered the composition of the Provincial Legislatures and the method of election to them. It was found impossible to isolate the more purely communal questions involved from such matters as the number of seats for special interests, and the size of the Legislatures. On such points, however, the Government had had the benefit of the advice of the Indian Franchise (Lothian) Committee. The award was issued on the 16th August, 1932, and presented to Parliament as Cmd. 4147.

4. Subject to an alteration in respect of the Depressed Classes explained further below, the provisions of the Award are reproduced on pages 91 and 93 of the White Paper (those regarding election on page 91 being a slightly abridged version).

5. The announcement prefaced to the Award contained the following very important passage :—

Paragraph 4. " His Majesty's Government wish it to be most clearly understood that they themselves can be no parties to any negotiations which may be initiated with a view to the revision of their decision, and will not be prepared to give consideration to any representation aimed at securing the modification of it which is not supported by all the parties affected. But they are most desirous to close no door to an agreed settlement should such happily be forthcoming. If, therefore, before a new Government of India Act has passed into law, they are satisfied that the communities who are

concerned are mutually agreed upon a practicable alternative scheme, either in respect of any one or more of the Governor's Provinces or in respect of the whole of British India, they will be prepared to recommend to Parliament that alternative should be substituted for the provisions now outlined."

6. Since the Award there has been one important modification in respect of the representation of the Depressed Classes, the history of which is shortly as follows: On the issue of the Award Mr. Gandhi expressed his intention to fast against it in view of his objection to the provisions made regarding representation of the Depressed Classes, which, in his view, would have produced an artificial splitting of the Hindu community. In published correspondence the Prime Minister gave the reasons why the Government were unable to take the same view, but Mr. Gandhi remained unconvinced and began his fast. Negotiations now began, under Mr. Gandhi's auspices, between the representatives of caste-Hindus and representatives of the Depressed Classes led by Dr. Ambedkar. As a result an agreement was reached, now known as the Poona Pact, by which the number of the Depressed Classes seats in each province were increased above that recommended by the Communal Award, while a different system of election was substituted. The total number of Hindu seats (known technically as "general" seats) for caste-Hindus and Depressed Classes taken together remained the same under the Poona Pact as under the original Communal Award. The Government accepted the provisions of this Pact in modification of their Communal Award as being a mutually agreed practicable alternative under the provisions of paragraph 4 quoted above, and on this being announced Mr. Gandhi broke off his fast. The White Paper proposals on pages 91 and 93 incorporate the terms of the Poona Pact.

7. The position of the Government, therefore, as regards the proposals of the White Paper which cover the composition of Provincial Legislatures and the method of election thereto is that they themselves are specifically pledged not to recommend to Parliament any variation of these proposals except such as may be mutually agreed upon by the communities concerned, and they are also pledged as a Government not to participate in any negotiations for the purpose of reaching such a change. The Government interpret this pledge as covering the provisions of the Poona Pact which they have themselves accepted in the circumstances explained above.

8. The original Communal Award was concerned only with the Provincial Legislatures owing to the fact that corresponding provisions for the Centre could not very well be settled pending a decision on the numbers to be assigned in the Federal Legislature to British India and British Indian States respectively. The proposals in Appendices I and II of the White Paper, which

should be read with paragraph 18 of the Introduction to the White Paper, now contain the Government's proposals on this subject. These proposals are in effect supplementary to the original Communal Award. The Government have, however, not given in respect to them a specific pledge similar to that contained in paragraph 4 of the original announcement quoted above. While, therefore, they are not anxious to see a fresh investigation *de novo* into these proposals for allocation between the communities of seats in the Central Legislature, they do not consider these proposals to stand as regards their own attitude, in exactly the same position as the Provincial Communal Award, but they see the gravest objection to any change on two points, viz., the allocation of one-third of the British India seats in the Federal Legislature to Muslims, and the percentages of the seats allocated to British India and the States respectively

9. To summarise, it will be clear from the above that the Communal Award has reference only to the composition of the Legislatures, and is not concerned with the whole of the manifold points in the Constitution which have a communal aspect (e.g. special responsibilities of Governors and Governor-General, relations between Centre and Provinces, fundamental rights, etc.) and also that in respect of the matters provided for in the Communal Award, the Government have clearly defined their position and the conditions upon which alone they would think it justifiable to depart from it.

7231. *Sir Austen Chamberlain*: Is it the intention of the Secretary of State at sometime during our proceedings to make proposals of that kind to us ?

Sir Samuel Hoare: Certainly; I think it is quite essential that in any Constitution Act, somewhere or other, there should be provision for constituent powers.

7232. *Dr. B. R. Ambedkar*: I may draw attention to similar provisions in the present Government of India Act. There are certain sections mentioned in an appendix.

Sir Samuel Hoare: It is I think following the lines of every Constitution Act and following the lines of the Government of India Act itself.

7236. *Lord Salisbury*: I have read it as well as I can at the moment, but I have not been able to appreciate it fully ?

Sir Samuel Hoare : If Lord Salisbury will look at it again, always keeping in mind the fact that this is one of the questions which we have to consider and for which we have eventually to make some kind of provision in the Constitution Act, I think he will fully appreciate it.

Dr. B. R. Ambedkar: It is the Fifth Schedule to the Government of India Act :
" The provisions of this Act which ,may be repealed or altered by the Indian
Legislature."

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7260. *Marquess of Zetland:* May I ask one supplementary question? With regard to those four constituencies which will return Depressed Class representatives, will they overlap territorially ?

Sir Samuel Hoare: I do not think it has been worked out, but I think they will be chosen not to overlap. The whole area of Madras will be divided up into 15 areas; 11 of these, as I see it, will be of the ordinary kind

7261. *Dr. B. R. Ambedkar :* Fifteen will be general ?

Sir Samuel Hoare: I make 11 ordinary, making 19 in all; 11 single members and four double members.

7262. *Mr. Zafrulla Khan:* May I put one question to Sir Findlater Stewart to clear up one aspect of it? I merely want to understand it. Supposing a panel of four is chosen and then they proceed to contest or this particular constituency reserved for them amongst themselves. One knows if a contest comes forward, everybody will vote who can vote in a general constituency, but supposing three of them say : " We do not wish to contest this election," would it be possible for them to withdraw before the election takes place ?

Sir Findlater Stewart: It is an interpretation of the Poona Pact.

Sir Samuel Hoare: What does Dr. Ambedkar say ?

Dr. B. R. Ambedkar: That is the view, that it is not obligatory upon all four of them to contest.

Sir N. N. Sircar: That is the view, but that is not the language used.

Mr. Zafrulla Khan: Another aspect is, are the Depressed Classes in any of these particular constituencies bound to put forward four candidates ? Supposing they put forward only one, will the terms of the Pact be complied with ? What does His Majesty's Government understand the Pact to mean in that respect ?

Sir A. P. Patro: The purpose of preliminary election will be defeated. What is meant by preliminary election is electing four people for a seat ?

Sir N. N. Sircar : Dr. Ambedkar will vouch that I am putting the interpretation which was understood at the time of the making of the Poona Pact. It was understood that the Depressed Classes should have the liberty, instead of electing four, to elect one only. In that case, automatically the one got through.

Dr. B. R. Ambedkar: That is quite right.

Mr. Zafrulla Khan: If they put forward four, one could withdraw.

Dr. B. R. Ambedkar: Yes.

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748 8. *Sir N. N. Sircar*: May I get some facts before the Committee ? I am not putting any argument; I only want to put some facts so that the Committee can get them in a short compass. The communal decision is dated the 17th August, 1932 ?

Sir Samuel Hoare: August 16th.

7489. *Sir N. N. Sircar*: In my copy it is the 17th. One day does not matter. Under this award or decision the net result of that was, as regards the depressed classes, that they would vote in the general constituencies, and their number of seats would be 10, and the arrangement would come to an end after 20 years. To put it very shortly that was the decision ?

Sir Samuel Hoare: Yes.

7490. *Sir N. N. Sircar*: The other date is the 18th August, 1932. That is the date on which Mahatma Gandhi wrote his letter to the Prime Minister— (I am quoting the words)—threatening a fast and saying : " This fast will cease if the British Government will revise their decision and withdraw their scheme of representation for the depressed classes." Mahatma Gandhi wrote this letter to the Prime Minister threatening a fast and the consequences. Does that date agree with your information?

Sir Samuel Hoare: I have not got the dates here. I take it the dates are accurate.

7491. *Sir N. N. Sircar*: Will the Secretary of State accept this course ? May I put all these dates in my questions, and, if there is any mistake it can subsequently be pointed out either by communication or by some other means ?

Sir Samuel Hoare : Yes.

7492. *Sir N. N. Sircar*: I am giving the dates. On the 18th August that letter was written by Mahatma Gandhi to the Prime Minister. On the 8th September, 1932, the Prime Minister wrote back to Mahatma Gandhi pointing out that the Prime Minister's scheme, that is to say, the communal decision, had not separated the depressed classes from the Hindu community. The point is the date; on the 8th September the Prime Minister tried to reason with Mahatma Gandhi that nothing wrong had been done. On the 15th September, 1932, Pandit Madan Mohan Malaviya issued a notification in some of the newspapers calling a Conference to be held at Delhi on the 17th and 18th September. The invitation as it appeared in the Press was stated to be "To a few friends." That is the 18th September, 1932. On the 16th September, 1932, another announcement was made by the same gentleman, Pandit Madan Mohan Malaviya, in the Press that the venue had been changed from

Delhi to Bombay, and, on the 20th September, 1932, the fast which later on was described as the fast unto death, began. On the 24th September the condition of Mahatma Gandhi was announced to be very serious, and on the 25th September, 1932, the Pact was signed. These are the dates I am giving to you. You can subsequently either correct them or accept them ?

Sir Samuel Hoare : Yes.

7493. *Sir N. N. Sircar*: In my next question I am giving you some other dates, and I will not press for an answer if you are not prepared with an answer just now, but I am only indicating my case broadly because I shall call witnesses on these points to prove these facts. The Pact was signed at Poona on the 25th September, 1932. In this Pact there are many signatories. I do not want to read out all the names. There is no signatory representing the Bengal Hindus, and the very next day, on the 26th September, 1932, at Delhi, at 11 o'clock, the Home Member announced the acceptance of the Pact by His Majesty's Government, and he said : " His Majesty's Government has learned with great satisfaction that an agreement has been reached between the leaders of the depressed classes and the rest of the Hindu community." That was the very next day it was announced in the Assembly. These are the dates if you will kindly check them. May I take it, judging by those, as also by your answers, which you were pleased to give yesterday, that the Government here was under the impression that an agreement had been reached between the leaders of the depressed classes and the rest of the Hindu community ? That must have been your impression ?

Sir Samuel Hoare : I will answer your question when you have finished it.

7494. *Sir N. N. Sircar*: I have finished this question.

Sir Samuel Hoare: The Government, rightly or wrongly, have, under the terms of paragraph 4 of their original Communal Award, accepted the Poona Pact as an All-India agreement between the parties concerned, that is to say, between the depressed classes and other Hindus. Everyone in public life in India must have known that the negotiations from which the Poona Pact emerged were in progress, and it was to be presumed that any interested parties would take steps to secure that their views were not overlooked. It is perhaps not without significance (and I would draw the attention of the Committee to this fact) that no protest from Bengal seems to have come for a considerable time after the announcement of the Pact. Indeed, during the course of the discussions we received scores of telegrams in favour of the Pact; not a telegram against it, and, amongst those scores of telegrams, I remember offhand a telegram from a very distinguished Hindu in Bengal, Sir Rabindranath Tagore. I do not know when protests first began to be made in Bengal, and I cannot trace that any representations were made to His

Majesty's Government until something like three months after their acceptance of the Poona Pact. The Government expresses no opinion on the merits of the Pact in relation to Bengal. They would, of course, be perfectly ready to accept any modification in respect of Bengal reached by mutual agreement between the parties concerned, but the Government, as a Government, is precluded by the terms of its original communal award, from itself taking part in any negotiations towards that end.

7495. *Mr. M. R. Jayakar*: What was the nature of the telegram sent by Sir Rabindranath Tagore ? Did he approve of the Pact ?

Sir Samuel Hoare: Urging the Government to accept the Pact.

Sir Tej Bahadur Sapru: May I, Sir Samuel Hoare, tell you and the Committee one thing with regard to this matter ? Both Mr. Jayakar and I happened to be in Poona for about four or five days during the progress of these negotiations. I have a very distinct recollection that telegrams were received from Bengali Hindus. I, personally, received a telegram from two or three important Bengali Hindus. I have not got those telegrams here, but I will further add that Sir Rabindranath did pay a visit to Mr. Gandhi in jail at the time or shortly after the opening of the fast. That is my recollection. I am speaking subject to correction. *Sir Hari Singh Gour* : He did.

Sir Tej Bahadur Sapru: There was some sort of ceremony held. I left Poona immediately after the signing of the Pact; all this happened after I left. Probably, Mr. Jayakar was there, and he will be able to make a statement.

Mr. M. R. Jayakar: I was not there when Sir Rabindranath Tagore called : I was not present in Poona.

7496. *Sir N. N. Sircar*: Is Sir Samuel Hoare aware that Sir Rabindranath Tagore is a Brahmin ?

Sir Samuel Hoare: I take it from Sir Nripendra Sircar that that is so. The indisputable fact, however, is that for many weeks we received almost countless telegrams and letters from India urging the acceptance of the Pact and not a single protest against it.

7497. *Sir N. N. Sircar*: I will not go into minute details, because I am waiting for evidence to be called upon this point, but have you scrutinised those telegrams ? Whether they were all coming from Congress people ?

Sir Samuel Hoare: They were all coming from Hindus, and I would not for a moment accept the suggestion that they came exclusively from Congress Hindus.

7498. *Sir N. N. Sircar*: As regards the sufficient protest not having been made at or about the time and telegrams coming from some people, may I put this situation to you, that when Mahatma Gandhi uttered that threat, it was not a question merely of a large section of the Hindu being ground down. Is it not

right to say that was the position also of His Majesty's Government ?

Sir Samuel Hoare: That never entered into our minds at all.

7499. *Sir N. N. Sircar :* Let me put it to you, if it strikes you now in that way. When he said : " I am going to fast myself to death unless the British Government do this, that, and the other ", you did not point out to him section 508 of the Indian Penal Code and say : " This is a crime but we propose now to let you out of jail." Was not that His Majesty's Government's understanding also, because of overriding considerations, because if the man had been allowed to carry out his fast, tremendous consequences might have arisen. Therefore, you not merely acquiesced in what was an offence under the Indian Penal Code, but your offer was that a man who ought to be kept in jail for other reasons, should now come out into the open. I am putting to you this ?

Sir Samuel Hoare : Sir Nripendra Sircar can rest assured that we did not in any way act under any sort of threat or in any atmosphere of emergency. The only aspect of the question to which we looked was this : Was the agreement reached an agreement such as we had contemplated under the communal decision judged by all the evidence that was available to us ?

Then, and for many weeks subsequently, it seemed to us quite conclusive that it was such an agreement.

7500. *Sir N. N. Sircar:* I think you are aware that a representation was made to the Prime Minister by a letter from me in December, 1932, enclosing certain telegrams which had come here in November from members of the Bengal Council ?

Sir Samuel Hoare : I am aware that Sir Nripendra Sircar has taken a very close interest in the question from start to finish.

Sir N. N. Sircar : I sent that letter on to the Prime Minister as requested by the Members of the Council, and you will find that before I sent to the Prime Minister this telegram of protest from the 25 Members of the Bengal Council, that Bengal are not represented, and so on, it was shown to Dr. Ambedkar, who sent a telegram to Bombay to find out what their reply to this telegram was. I thought it fair to show it to him, so that he could get his version from Bombay, and this is the reply which he got.

Dr. B. R. Ambedkar: I assure I did not do anything of the sort, if Sir Nripendra Sircar will forgive me. Sir Nripendra Sircar represented that he showed to me a certain telegram and asked me to get certain information about it from Bombay. I did not do anything of the sort.

Sir N. N. Sircar: I have got the copy which was handed over to me by Dr. Ambedkar, and I will read to you the reply which he got.

Dr. B. R. Amhedkar : It is not a reply ; it is an independent telegram sent to

me.

Sir N. N. Sircar: The point is the contents of the telegram, which said that the Bengal Hindus are bound by reason of their default in not appearing at Bombay, that is to say, it was put on the ground that we were bound because we had not taken part in the Pact. I think you must have found that in the telegrams that were sent to the Prime Minister.

Sir Samuel Hoare: I think it is very unfortunate that those telegrams were only sent in December, and were not sent when the negotiations were actually in progress.

7501-2. *Dr. B. R. Ambedkar:* The telegram was in November. It was sent in December, because I was waiting for the replies, and so on, and the Bengal Council met for the first time after these negotiations in November. As soon as they met, 25 members sent this telegram, or representation, to the Prime Minister. I only wanted to point out to you that whatever may be said, it has been the case that Bengal has gone by default. The case of Bengal has never been made, even in that telegram. Now the next matter to which I draw your attention, is a very short one. Does Sir Samuel Hoare agree with the view that the situation which has been created as the result of the Poona Pact and the communal decision, will lead to very terrible and serious consequences in Bengal ?

Sir Samuel Hoare : No, I do not think. *Sir N. N. Sircar:* I do.

7503. *Dr. B. R. Ambedkar:* Is it your opinion that if the vastly preponderating majority of seats of the Mohammedans, 119 seats, are reduced by 10 or 12 seats, that will lead to terrible consequences in Bengal ?

Sir N. N. Sircar: I do not accept the phrase, "vastly preponderating majority", nor do I think that the result will be disastrous.

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7509. *Dr. B. R. Ambedkar :* My Lord Chairman, may I have your attention for a moment to make a very brief statement with regard to a question or two that was put by Sir Nripendra Sircar, in view of the fact that he may not be here when my turn comes ? Sir Nripendra Sircar said that he got a telegram during the course of the Third Round Table Conference last year and that he showed it to me and that I made inquiries with regard to that telegram, and that I got a certain telegram in reply to that. The point that I would like to make clear so that Sir Nripendra may have an opportunity to correct me if I am misstating anything is this: The telegram which I got was not a telegram in reply to any inquiry that I made.

Sir N. N. Sircar: I may cut the matter short.

Dr. B. R. Ambedkar: T just want to say a word.

Chairman: Please let Dr. Ambedkar make his statement.

Dr. B. R. Ambedkar: The telegram to Sir Nripendra Sircar was published in the Indian papers and when the members of the Anti-Untouchability Board that was established by Mahatma Gandhi after his fast was over, learned that this telegram was sent to Sir Nripendra Sircar protesting against the Poona Pact, they, of their own accord, sent me the telegram to which Sir Nripendra Sircar has made reference. It was not in reply to any inquiry that I made. The next point I want to bring to the notice of the Committee is that when Sir Nripendra Sircar showed me the telegram he got from his Bengal friends protesting against the Poona Pact, he told me that all he was going to do was to send that telegram to the Prime Minister, without any comment, for his information. On the day before he left he very kindly sent me a copy of the letter which he addressed to the Prime Minister. In that letter I found that Sir Nripendra Sircar had not only forwarded the letter to the Prime Minister, but had urged upon the Prime Minister to make an inquiry as to whether the Bengal caste-Hindus were represented at the time when the Poona Pact was settled. In view of that I also immediately wrote a letter to the Prime Minister, a copy of which I shall present to the Committee when my turn comes, in which I also forwarded the telegrams which I had received, and I also stated that the fact mentioned in the telegram that the Bengal caste-Hindus were not represented when the Poona Pact was made was not correct to my knowledge, because I knew, as a fact, that several members from the Bengal caste-Hindus were present when the Pact was made, that they had had conversations with me and had presented me to come to terms. That is all I want to say at this stage.

7533. *Sir Mirza Ismail:* What Lord Lothian said was that the Legislature which appoints the Government will appoint the members to the Upper House. Once these members are elected by the Legislature they cease to have any responsibility. They can express their own views, and they do not go and consult the Legislature on every point which comes up before the Federal Government. Once they are elected they are independent, but what the Federal Government would like to know would be the views of the Government of the Province.

Dr. B. R. Ambedkar : The Government of the day of the Province ?

Sir Mirza Ismail: Of the day.

Dr. B. R. Ambedkar: And if there were a change of Government of the Province there would be a change of representation at the Centre ?

Sir Mirza Ismail: At the Centre. If you want to prevent this extreme provincialism that is already developing in India this seems to me to be the best way of doing it. You have already the popular element in the Lower

House; from the democratic standpoint there should be no objection to it because of the democratic Governments in the Provinces.

Dr. B. R. Ambedkar: Send them with mandates to vote on a particular issue.

Mr. M. R. Jayakar: If this scheme were adopted, would it not come to this, that although normally the life of the Provincial Legislature would end in five years and, as Mr. Zafrulla Khan pointed out, the life of the Upper House would be seven years, there must be necessarily one change in the personnel.

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7746. *Dr. B. R. Ambedkar:* I would like to ask the Secretary of State whether the Instruments of Accession that would be passed by the different States on entering the Federation would find a place in the Constitution Act?

Sir Samuel Hoare: The answer is : No, they would not.

7747. *Dr. B. R. Ambedkar :* How would it be possible, supposing a dispute arose in a Federal Court, for the Court to determine whether any particular subject which was the subject-matter of dispute was within the competence of the Federation ?

Sir Samuel Hoare : I imagine—here I speak as a layman—they would take into account the treaty, just as they take into account treaties now.

Sir Tej Bahadur Sapru: Yes.

7748. *Dr. B. R. Ambedkar :* But it would not be part of the Constitution Act?

Sir Samuel Hoare : No ; it would not be in the Constitution Act ; neither are the treaties now in any Act of Parliament, yet (Sir Tej Sapru and other Indians will correct me if I am wrong) treaties have been constantly taken into account.

Sir Tej Bahadur Sapru : Yes. Treaties are part of the municipal law everywhere.

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8102. *Dr. B. R. Ambedkar :* May I draw the attention of the Secretary of State to the fact that under Proposal 70 of the White Paper, the Governor has the special responsibility to secure the execution of orders lawfully issued by the Governor-General ?

Sir Samuel Hoare: Yes.

8103. *Dr. B. R. Ambedkar:* If the Governor-General issued any orders with respect to finance which required the Provincial Governments to execute them, the Governor would see that they were executed ?

Sir Samuel Hoare : Yes ; in the field of Federal taxation that would be so.

8104. *Dr. B. R. Ambedkar:* Any orders issued by the Federation which

required that they were to be executed by the Provincial Government, there is a special responsibility on the Governor to see that those orders are executed ?

Sir Samuel Hoare: Yes, Orders issued by the Governor-General.

Sir Hari Singh Gour: Lawfully issued.

8105. *Dr. B. R. Ambedkar :* Lawfully issued, of course. Another question. In that section of the White Paper proposals which deals with the administrative relations of the Provinces and the Centre—I am speaking offhand— I think provision is made that whether the Provincial agency will be utilised by the Centre in carrying out the administration of Central subjects is a matter for the Province : it may employ its own: agency ?

Sir Samuel Hoare : Yes, I have always hoped, judging from the experience of other Federations, that we should duplicate as little as possible administrations, and speaking generally, it is much better that the Provincial administration should carry out the directions of the Federation within the Federal field rather than that you should duplicate these administrations all over India.

8106. *Dr. B. R. Ambedkar:* What I was trying to point out was this. that if the Provincial Governments turned out to be recalcitrant and not amenable to the control of the Central Government, the Centre is not bound to employ the agency of the Province and can employ their own agency in the administration of Central subjects ?

Sir Samuel Hoare: That is so.

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8138. *Dr. B. R. Ambedkar:* I want to suggest that the standard of administration in Bengal is low because Bengal has not been able to raise sufficient revenue by reason of the Permanent Settlement. It is another way of stating the same thing ?

Sir Samuel Hoare : It is one of the reasons, but we have to accept the fact that the Permanent Settlement is there.

Dr. B. R. Ambedkar: That is so.

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*8527. *Dr. B. R. Ambedkar :* Under the White Paper there is no means raising, say, one anna for Provincial purposes without raising in those circumstances another anna, which ex-hypothesis is not needed, for Federal purposes. The other hypothesis is that the Provinces do not need any more income-tax, but the Federal Government does and you then have to raise double the amount (assume that the percentage prescribed is 50 : 50) you have to raise two annas in order that the Federal Government may get one

because, for every one it takes, it must give one to the Provinces, even though they do not want it ?

Sir Samuel Hoare: I will take all these points into account. I would ask the members of the Committee to remember that there must be (whatever the arrangements) anomalies. I do not say exactly of the kind contemplated in the White Paper, but anomalies of some kind under any system under which the income-tax is shared between the Centre and the Provinces.

Dr. B. R. Ambedkar: May I draw the attention of the Secretary of State and Sir Austen Chamberlain to two points ? Sir Austen said there is no provision for the Province to raise any income-tax if it wanted it for its own purposes. I wish to draw his attention to Proposal 139, and what appears in the brackets, " A prescribed percentage, not being less than 50 per cent, nor more than 75 per cent of the net revenues derived from the sources specified in the margin."

Sir Samuel Hoare : That is the income-tax—" (exclusive of any surcharges imposed by the Provinces)." I take it from that the Provinces will have the right to levy a surcharge on the income-tax for their purposes.

Sir A. P. Patro: In addition.

8528. *Dr. B. R. Ambedkar :* That is Proposal 139 ?

Sir Samuel Hoare: That is so, and the Committee will see that we alluded to it at the top of page 30 of the Introduction.

8529. *Dr. B. R. Ambedkar:* May I draw the attention of the Secretary of State to a statement that he made just now, that with regard to the imposition of surcharges for Federal purposes on the income, I think he said the key to the position was the previous sanction of the Governor-General. I would like to draw his attention to the fact that Proposal 141 does not stipulate that the previous sanction of the Governor-General will be required to surcharges for Federal purposes. The previous sanction of the Governor-General refers to revenues assigned to the Provinces, namely, those enumerated in Proposals 138 and 139. Paragraph 141 is not made dependent on the previous consent of the Governor-General ?

Sir Samuel Hoare: I think Dr. Ambedkar is quite right, and I must look into my answer in connection with the note I will circulate.

Sir Akbar Hydari: There is also Head 49 in the exclusively Federal heads where definitely it is said: "Imposition and administration of taxes on income other than agricultural income or the income of corporations, but subject to the power of the provinces to impose surcharges " under the exclusively Federal heads.

Lord Eustace Percy: I do not think that exhausts it because all the evidence we have received, and all the evidence I ever heard in India was violently

opposed to Provincial surcharges.

Dr. B. R. Ambedkar: That was the view of the business people, I am sure.

Lord Eustace Percy: It was the opinion of every single Indian to whom I had the opportunity of putting questions.

Dr. B. R. Ambedkar: No, indeed, they were not.

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8537. *Lord Rankeillour:* May I ask a question arising out of Dr. Ambedkar's. I think it is of some importance. With regard to the consent of the Governor-General, surely all Federal taxation will be subject to the consent of the Governor-General. It can only be on his initiation, and a resolution such as we have here, that any tax can be considered ?

Sir Samuel Hoare : Yes, but I think Lord Rankeillour really is confusing the two positions. There is the general constitutional position under which money votes originate with the initiative of the Crown. That position, of course, stands. I was contemplating the other position in which the Governor-General intervenes under some special obligation in the Indian Constitution.

8538. *Lord Rankeillour:* I felt sure that was the meaning, but the actual answer given to Dr. Ambedkar would seem to suggest that under paragraph 141 the Federal Legislature would have the power to act without the Governor-General's previous recommendation.

Mr. M. R. Jayakar : May I ask Lord Rankeillour's attention to Proposal 45, which deals with this question. " A recommendation of the Governor-General will be required for any proposal in either Chamber of the Federal Legislature for the imposition of taxation." *Lord Rankeillour:* Yes, so I thought. I quite agree.

Dr. B. R. Ambedkar: That relates to the special power of the Governor-General, and that is made so because the taxes contemplated in paragraph 138 are not to go to the Central fisc, but they are to be distributed amongst the Provinces.

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8575. *Dr. B. R. Ambedkar:* My Lord Chairman, may I just intervene for a moment for the purpose of asking for information, not for raising any controversy. The Committee knows that there is a certain amount of difference of opinion on the expression " existing and accruing rights ". The Civil Service takes one view, the Law Officers of the Crown take another view, and I believe this Committee will have to give some sort of opinion upon that subject before the clause is drafted. I find exactly the same expression " existing and accruing rights " used in the South African Constitution of 1909, and I wonder whether it would not be possible for Your Lordship and the Secretary of State to obtain the Memorandum from the Dominions Office to

find out exactly how that clause has been acted upon, and interpreted by the South African Government ?

Sir Samuel Hoare : I will certainly look into that suggestion. In any case, it is a question which we must deal with when we come to the Services. It is not quite the same question though that Sir Purshotamdas put to us.

8576. *Dr. B. R. Ambedkar*: No; that is why I said I did not want to raise any controversy. I am simply asking for information as to whether that would not be possible as a sort of comparative view ?

Sir Samuel Hoare: Yes.

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8633. *Dr. B. R. Ambedkar* : I would like to ask one question about the statement made by Sir Akbar Hydari on the application of paragraph 141. You said yesterday. Secretary of State, in making your brief observations on that statement that you were glad that the States had accepted, at a certain point, to bear the burden of the Federal Government ?

Sir Samuel Hoare : Yes.

8634. *Dr. B. R. Ambedkar*: What I would like to know is this — you can give the answer now, or, if you like to refer to it later I have no objection—whether you agree that the stage which has been described by Sir Akbar Hydari is the stage at which the States should begin to bear the burden of the Federation ? He has, as you know, described certain stages through which the Federal finance must go before the States could be called upon to bear their share ?

Sir Samuel Hoare : Yes.

8635. *Sir Akbar Hydari*: Additional burden?

Sir Samuel Hoare: There are really three burdens. There was first of all the burden of indirect taxation that they undertake from the start; secondly, there was the burden of the Corporation Tax, or the equivalent of the Corporation Tax that they undertake after a definite terms of years ; and, thirdly, there was the surtax that they undertake in the event of an emergency.

8636. *Dr. B. R. Ambedkar* : I thought he laid down certain conditions ?

Sir Samuel Hoare: He laid down certain conditions — Sir Akbar will correct me if I am wrong for the third of these burdens, namely, the surtax.

8637. *Dr. B. R. Ambedkar*: I wanted to know whether you agree that those were the appropriate conditions under which the Federation will resolve to surcharge ?

Sir Samuel Hoare: I think so. I do not want to tie myself down to the exact words, but I think, generally, that seems to me to be a fair basis of an arrangement.

8638. *Dr. B. R. Ambedkar*: The next question I want to put to you, arising out of that, is this : that if that position is maintained or even the position as it

is under Proposal 141 is maintained, would it not be the fact that the Federation will have to carry on its finances entirely on the basis of indirect taxation ?

Sir Samuel Hoare: Not entirely on the basis of indirect taxation.

8639. *Dr. B. R. Ambedkar:* To a very large extent ?

Sir Samuel Hoare: Obviously, to a large extent. Indirect taxation will then, as it does now, play a very prominent part in the Indian revenue.

8640. *Dr. B. R. Ambedkar :* What I want to put to you is this. Sir Samuel Hoare, that it will be more so under the Federation than it is now, for the simple reason that the British Indians would not consent to direct taxation, because the States will not consent, and, consequently both of them would rather go in for indirect taxation, to be borne by both apart, rather than agree to direct taxation, which would be borne by British India alone. From that point of view indirect taxation would be more and more forced upon them than is now the case ?

Sir Samuel Hoare : From the other point of view, I can imagine the States very often on the side of the less indirect taxation.

8641. *Dr. B. R. Ambedkar :* That is because they do not have their finger in the pie now. Would it be the same thing afterwards when, if they are opposed to indirect taxation they have to bear the brunt of the taxation ?

Sir Samuel Hoare: Dr. Ambedkar will also remember in this triangle of forces that the Provinces will have an interest in direct taxation, as they have a share in it.

8642. *Dr. B. R. Ambedkar:* Yes, that may be so, but the Province also will see that the Federation is not entirely a charge on Indian Revenue raised in British India. It is a pure matter of speculation, but I want to pay attention to what would be the drift of the finance under the Federation. If I may say so, the Federation would entirely have to build a tariff wall round itself in order to carry on ?

Sir Samuel Hoare: Dr. Ambedkar says it is a subject of speculation. I am inclined to agree with him, but I am not inclined, having assumed it is a subject of speculation, then to prophesy exactly what is going to happen.

8643. *Dr. B. R. Ambedkar:* I will leave it at that. The next question I would like to ask of Sir Samuel Hoare arising out of the same proposal, 141, is this : You said that the States will contribute an equivalent amount to the Federal Revenues on a sum to be assessed on a prescribed basis. Of course, you have explained this morning how the word " prescribed " is used, and I am not going to ask you any questions upon that, but what I would like to ask you is this. Is there any provision made in the White Paper to see that the sum assessed on this prescribed basis, which becomes payable by a particular

State, will be ultimately paid to the Federation ?

Sir Samuel Hoare: It would then mean a default, would it not, on the part of a State ?

8644. *Dr. B. R. Ambedkar:* Yes, supposing the State does not pay. I am assuming only one case now, for the moment ?

Sir Samuel Hoare: The Viceroy then, I assume, could intervene.

8645. *Dr. B. R. Ambedkar:* The Viceroy, as you know, is outside the Federal Constitution ?

Sir Samuel Hoare: If Dr. Ambedkar will look at paragraph 129, he will see there : " The Governor-General will be empowered in his discretion to issue general instructions to the Government of any State-Member of the Federation for the purpose of ensuring that the Federal obligations of that State are duly fulfilled."

8646. *Dr. B. R. Ambedkar:* Yes. What I want to say is this. Paragraph 129, if I may make the distinction, only gives the Governor-General the power to give a direction. It does not give the Governor-General the power to take remedial measures, if the directions are not obeyed ?

Sir Samuel Hoare: The Act nowhere provides explicit sanctions in situations of that kind either for the Provinces or for the States.

8647. *Dr. B. R. Ambedkar:* For the Provinces it does, because the Governor has a special responsibility to see that the orders of the Governor-General are carried out and obeyed, and to that extent he will be directly under the control of the Governor-General, and so provision does there exist, so far as the relations between the Provinces and the Centre are concerned, that his orders will be carried out ?

Sir Samuel Hoare: I think there is just the same sanction. Is there not, with the Governor-General and the States ?

8648. *Dr. B. R. Ambedkar:* No, if I may say so, as you explained on the Memorandum on the Instrument of Instructions if he disobeyed, the Governor could be recalled. There is no such provision in the relations between the States and the Centre ?

Sir Samuel Hoare: In each case the responsibility is the responsibility of the Governor-General at his discretion, that is to say, subject to his instructions from here.

Dr. B. R. Ambedkar : But my point is that just as the Governor would be subject to the power of the Governor-General with respect to the administration of the Province, the ruler of a State is not subject to the directions of the Governor-General beyond, I suppose, the administration of such matters which appertain to the Federation; that is with the Viceroy.

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8650. *Dr. B. R. Ambedkar:* But, as you said, the paramountcy will be assigned to the Viceroy, and not to the Governor-General ?

Sir Samuel Hoare: Yes, but nevertheless the result will be the same.

Mr. Zafrulla Khan: The Governor-General will formally make a request to the Viceroy and the Viceroy will thereupon act.

Dr. B. R. Ambedkar : May I ask another question arising out of the same ? There is another aspect of it. It is assumed that the States that would be liable to make this contribution would be solvent at the time when the contribution is called for. Is there any provision in the White Paper to see that the Governor-General whose finances would, to some extent, be dependent upon these contributions coming from the Indian States, has power to see that these contributories will be solvent on the days when the contributions fall due ?

Rao Bahadur Sir Kishnama Chari: What is the provision with regard to the Provinces ? Is there any such provision with regard to the Provinces ?

Dr. B. R. Ambedkar: Yes, the Governor can certify that a certain amount is due to the Federation and shall be paid, and it will be paid.

Mr. Zafrulla Khan: May I recall a suggestion I made during the preliminary discussions here that the Viceroy might task the States who are units of the Federation to submit for his information every audited copies of their accounts ?

8651. *Dr. B. R. Ambedkar:* There is one more point, and I think the Secretary of State may give a combined answer. If you will refer to paragraph 146 dealing with the borrowing powers you will see there it is provided that the Federation may borrow Upon the security of Federal revenues. The contributions to be made under Proposal 141 will be part of the Federal revenues which will be the security for the loans which the Federation will raise. Do you think it would sufficiently add to the credit of the Federation if part of the revenues which the Federation can call upon in order to give security for the Federal loans are left in this uncertain state both as to capacity to pay and the willingness to pay ?

Sir Samuel Hoare: I would have thought really that the contingency Dr. Ambedkar is contemplating is a contingency that is not very likely to arise often, and that, if it does arise, it is not the kind of contingency that is going substantially to alter the credit of the Federation. After all, these amounts taken altogether are very small amounts.

8652. *Dr. B. R. Ambedkar:* I do not know what they would be ?

Sir Samuel Hoare: And in the event of a single default.

8653. *Dr. B. R. Ambedkar:* I hope they will not be very small ?

Sir Samuel Hoare : I cannot imagine that that would make much difference to the credit of India.

Sir Akbar Hydari: Is not the financial position of the States, through the exercise of paramountcy, in a much better condition than that of the Provinces through the exercise of the special responsibilities of the Governor ?

Dr. B. R. Ambedkar : I thought the statement made by Sir Mirza Ismail yesterday disclosed a most pathetic state of affairs.

Sir Akbar Hydari: It was still a balanced budget by which he could pay up his tribute all right

11,297. *Dr. B. R. Ambedkar :* My Lord Chairman, I would like to point out to the Secretary of State that the expression which we find in the Government of India Act—" existing and accruing rights"—is an expression which is also found in the South African Constitution Act. I was wondering whether it would not be possible for us to get a statement from the Dominion Office to find out exactly how that expression has been acted upon in South Africa ?

Sir Samuel Hoare : We made an inquiry upon this very point. Dr. Ambedkar, I think, did allude to it during the summer and I have asked the Dominion Office for the information. I have not yet got it, but I am told that the cases are separate and distinct. In the case of South Africa there is no promise of compensation at all.

Sir Manubhai N. Mehta : I think they have it in Australia as well. 11,298.

Dr. B. R. Ambedkar: I simply wanted to know how the expression, " accruing rights ", had been interpreted in South Africa by the South African Government. The expression is exactly the same ?

Sir Samuel Hoare: I will see if I can get it. I asked about South Africa and Australia as well.

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11,438. *Dr. B. R. Ambedkar:* There is nothing to prevent a Public Service Commission being appointed for one province or for two provinces ?

Sir Samuel Hoare: No ; we do make provision for that purpose.

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11,526. *Dr. B. R. Ambedkar:* Might I intervene just for a moment to point out that the result to which Sir Malcolm Hailey has referred, namely, the denudation of the services of the local element, as soon as they are transferred to ministerial control is largely due to the fact that this transfer has also been accompanied by a reduction in the scale of salary. When a service has become provincialised the Minister has adopted a lower scale of salary than was obtainable formerly, and, consequently, the smaller scale of salary has not attracted European candidates?

Sir Samuel Hoare : Yes ; they have substituted, in other words, ' Imperial '

for 'Provincial' services.

Dr. B. R. Ambedkar: It is the salary that has made the difference—not the transfer.

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11,669. *Dr. B. R. Ambedkar :* Might I make a suggestion for consideration on this matter ? Instead of giving the right outright to the new entrant would it not be better for the Secretary of State to retain a discretion in his own hands which he may exercise in a genuine case where a man wants to retire because he has really been suffering under the new conditions, and does not really want to take advantage of this rule ?

Sir Samuel Hoare: We can consider a suggestion of that kind. I assume Dr. Ambedkar's suggestion refers to the new entrants ?

11,670. *Dr. B. R. Ambedkar:* Yes, I am talking of the new entrants. In that case the Secretary of State may retain in his own hands a certain amount of discretion which he may exercise in favour of a man who has genuinely proved to the Secretary of State and his advisers that the reasons of his retirement is discontent and dissatisfaction with the new conditions ?

Sir Samuel Hoare: I should like to consider a suggestion of that kind. The doubt that is in my mind is whether the mere fact that there is this discretion will take away the assurance from the mind of the parent, or the university, or the school from which the young man is coming, but I will consider it.

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12,025. *Dr. B. R. Ambedkar :* I want to ask one question. Sir Samuel, on these provisions in general. The ultimate purpose of these previous sanction rules would also of course be achieved by the power of veto—the subsequent power of veto which the Viceroy and the Governors have got; so, from that point of view, there is really not much to be gained by these provisions. I mean although the Viceroy may give his previous sanction he is not thereby bound to adopt the Bill when it is finally passed; he has the power of veto. So, from that point of view, there is not much to be gained by the rules of previous sanction, which could not ultimately be gained by the power of veto ?

Sir Samuel Hoare : I am not sure that I should agree with Dr. Ambedkar. The veto is a sanction of a somewhat different kind. It seems to me it is a bigger and more serious sanction. It comes after the Legislature has formally pledged itself to certain proposals; I think therefore it is a more serious sanction.

12,026. *Dr. B. R. Ambedkar:* Apart from all that, so far as the main object is to prevent anything affecting adversely the special responsibilities of the

Viceroy, the veto is an effective measure ?

Sir Samuel Hoare: I was just coming to that second consideration. The veto has a long history behind it, and judged by British experience generally, the veto becomes more and more in course of time something in the nature of a constitutional formality.

12,027. *Dr. B. R. Ambedkar :* But what I wanted to say was this. So far as I am able to judge the only distinction that one could draw between the effect of a previous sanction rule and ultimate veto is that the one, namely, the previous sanction, prevents discussion, while the veto does not. Is that not so ?

Sir Samuel Hoare: It is a difference.

12,028. *Dr. B. R. Ambedkar :* That is a difference. Now, what I want to point out to you. Sir Samuel Hoare, is this : Surely if discussion is to be prevented because it is going to attack the special responsibility of the Viceroy, you will bear in mind that this previous sanction rule certainly cannot operate to prevent discussion, either in the Press or on the public platform outside the Legislature, and cannot even prevent a public demonstration on an issue that would legitimately be brought under a previous sanction rule, so the only thing really that would happen under this is that while the public and the Press may be free to agitate and to demonstrate on a matter covered by the previous sanction rule, the only body that would be muzzled would be the Legislature ?

Sir Samuel Hoare: That is one way of putting it; it is Dr. Ambedkar's way of putting it.

12,029. *Dr. B. R. Ambedkar :* Is it not a fair way of putting it ? Surely the Viceroy's previous sanction powers are not going to be so widely extended in their operation as to cover the prevention of any discussion of a matter subject to previous sanction, either in the Press or in public meetings, or anywhere else ?

Sir Samuel Hoare : I think these certainly will be discussion of that kind. None the less, I do think there is a difference between discussion in the Legislature, and the comparatively irresponsible discussion outside. Secondly, this sanction of the previous consent has been in operation for some time and it was accepted generally as a Part of the New Constitution at each of the Round Table Conferences. Thirdly, if Dr. Ambedkar will look at the categories set out in paragraph 119 he will see that for each of them there is a considerable demand for some kind of special precautions. For instance, if he will take the question of religious rights and usages; there he must have noticed the very strong feeling that certain sections of the orthodox Hindus have upon the subject. He does not agree with them; he thinks they are all wrong. At the same time, they do hold these views very strongly, and they

would like questions of that kind excluded from the Indian Legislature altogether. Now, we have attempted to adopt a midway attitude between the two points of view and so on. With each of those categories I could make a similar defence, that there is a considerable body of opinion asking for some special precautions in these directions.

12,030. *Dr. B. R. Ambedkar*: What I was trying to drive at was this that while a member of the Legislative Council and a member of the Legislative Assembly may be free to discuss these matters outside in public, they will not be free to discuss them when they come inside the Legislative House. That is the only difference you are making by this previous sanction rule ?

Sir Samuel Hoare: They can have resolutions, but that is substantially the case.

12,031. *Dr. B. R. Ambedkar* : Now I just want to make one suggestion with regard to the point raised by Mr. Jayakar regarding the use of the expression " religion and religious usages ", because that is a thing in which I am so vitally concerned. I am just making the suggestion whether it would not be sufficient to use the expression " articles of faith " rather than the phrase " religion and religious usages " ?

Sir Samuel Hoare: I would have thought that articles of faith would have occasioned almost the same kind of controversy.

12,032. *Sir Hari Singh Gour*: More so?

Sir Samuel Hoare: And the trouble of a new phrase of that sort, I would have thought, would have concentrated upon it more varieties of interpretation even than the old phrase.

12,033. *Dr. B. R. Ambedkar* : I suggest that as far as possible the word "usage" ought to be avoided ?

Sir Samuel Hoare: I will take note of what Dr. Ambedkar has said.

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12,751. *Lord Rankeillour*: Secretary of State, on that would not it be possible for the Central Government to carry out the contemplated orders arising out of Federal legislation and to charge the Province with the cost ?

Sir Samuel Hoare: There is no machinery for getting the money.

12,752. *Lord Rankeillour*: But the money for the Provinces comes through the Central Exchequer, does it not ?

Sir Samuel Hoare: Income Tax would.

Dr. B. R. Ambedkar: I think the answer to Sir Austen Chamberlain's question may be given somewhat in this form. So far as the concurrent legislation is concerned, it is, I think, laid down in one of the paragraphs of the White Paper that any law in the concurrent field passed by the Federal Legislature will override a similar law passed by the Provincial Government.

Consequently, if there was a conflict of law passed in the concurrent field between a law passed by the Centre and one passed by the Province, *ipso facto*, by the provisions of the White Paper itself the Federal Law will have an overriding force as against the Provincial Law.

Sir Austen Chamberlain: That is so. That is the point that I put earlier to the Secretary of State.

Dr. B. R. Ambedkar : That is I think the position so far as the legislation is concerned.

Sir Austen Chamberlain: So I understand.

Dr. B. R. Ambedkar: So far as administration is concerned, I think the position will be that the Federal Executive will have the authority to issue directions and instructions to the Provincial Government through the Provincial Governors with regard to the administration of a concurrent law passed by the Federal Legislature, and the Governors, I think, would be bound to obey them.

Marquess of Reading : That is exactly the point upon which the Secretary of State has given an answer in the negative.

Sir Hari Singh Gour: There would be the penal clause that he who runs an unauthorised paper will be punished.

Dr. B. R. Ambedkar: Might I give another example which comes to my mind ? Supposing for instance in a state of emergency the Central Government passes a Press Act under which provision is made that no paper may be started unless it deposits a certain amount of security. Now that sort of legislation is not going to affect any particular private individual. Supposing there is a paper in a particular province which is helping the Government of the day—a Party paper. Supposing that paper is influencing the Press Act passed by the Central Legislature, and supposing on account of that affiliation between the particular newspaper journal and the Government of the Province, the Government refuses to take any action against that particular paper, what is the position ? Surely no individual is affected in this particular case ?

Sir Hari Singh Gour : There would be the penal clause that he who runs an unauthorised paper will be punished.

Dr. B. R. Ambedkar : That is exactly the point.

Sir Austen Chamberlain: And has to have the information and all the machinery for reaching the Government.

Dr. B. R. Ambedkar: If he charges a particular officer to carry on the prosecution and the local government pays the expenses of that prosecution and does not make provision for it in the budget, what is to happen ?

Sir Samuel Hoare: I see all those difficulties. At the same time I cannot help

seeing the difficulties on the other side. The case mentioned by Dr. Ambedkar is essentially a case of law and order, and law and order is a provincial subject and interest. The interest of the Federation is the interest of uniformity, but that does not affect the fact that primarily that case is a provincial case. If the argument suggested in Dr. Ambedkar's question and in Sir Austen Chamberlain's question, too, if I may say so, is pressed to its logical conclusion, it really does mean that the Federation will control the law and order in the Provinces, and that is directly contrary to the principles as at present drafted in the White Paper.

Dr. B. R. Ambedkar: I beg your pardon. My point is this, if I may submit it; either you must make law and order a purely provincial matter, a provincial concern which the Centre has nothing to do with, and then, of course, you can have the argument which you urged just now, but if you make it a matter of concurrent legislation, then I think the Federation must be in the position to see that the law is corrected.

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13,129. *Dr. B. R. Ambedkar:* Secretary of State, I just want to draw your attention to the present position of the concurrent field under the Government of India Act. I am anxious to do so because it was suggested to you that under the present Government of India Act only certain subjects or parts of certain subjects are made subject to the Central Legislature.

The point that I wish to draw your attention to is that, first of all, there are some Provincial subjects which are made specifically concurrent under Part II of Schedule I to the Devolution Rules ?

Sir Samuel Hoare: Yes.

13,130. *Dr. B. R. Ambedkar:* While subjects although they are made Provincial are controlled by the proviso that they are subject to the Central Legislature ?

Sir Samuel Hoare: Yes.

13,131. *Dr. B. R. Ambedkar:* I have made a computation that out of the 51 subjects which are included in Part II of the Schedule to the Devolution Rules, 14 are made expressly subjects to the Central Legislature, or to rules made by the Central Government or the Secretary of State. That is one thing. The second thing is this : That all Provincial matters are subject to concurrent jurisdiction by the Central Government under section 67, sub-clause (2) of the Government of India Act by previous sanction. Although any subject is regarded under Part II as a Provincial subject, it is none the less open to the Central Government to legislate upon the whole of that Central subject provided previous sanction is obtained from the Governor-General ?

Sir Samuel Hoare: Yes.

13,132. *Dr. B. R. Ambedkar:* On the side of the Provincial Government control is exercised by the Central Government on the concurrent field under section 80(a), whereby the local legislature of any Province may not without the previous sanction of the Governor-General make or take into consideration any law for regulating any Central subject or regulating any Provincial subject which has been declared by rule or law as being subject to the Central expressly reserved to the Governor-General in Council by the law for the time being in force. That is the present position ?

Sir Samuel Hoare: Yes.

13,133. *Dr. B. R. Ambedkar:* That is practically all of the Provincial field as also the concurrent field provided the sanction of the Governor-General is obtained ? *Sir Samuel Hoare:* Yes; that is so.

13,134. *Dr. B. R. Ambedkar:* Now under the present proposals the whole thing is completely altered. I mean the concurrent power of the Central Legislature is proposed to be taken away in most of the matters ?

Sir Samuel Hoare: Except in the List 3, yes.

13,135. *Dr. B. R. Ambedkar:* I want next to draw your attention to List 3. I am sorry I lost my paper which I completed, but I think I am right in suggesting that a great many of the subjects included in List 3 are today either exclusively Central or concurrent ?

Sir Samuel Hoare: Yes ; I think it might be said that a number of them certainly are.

13,136. *Dr. B. R. Ambedkar:* Consequently it would be fair to suggest that under the present Government of India Act. Your Concurrent List has always been treated as predominantly of All-India importance, under the Government of India Act as it is today, they being included either in the purely Central List or in the Concurrent List. My suggestion is that under the Government of India Act the field which is now concurrent was regarded in the Government of India Act as of All-India importance ?

Sir Samuel Hoare: Yes ; I think that generally is so. I think it is inevitable under a unitary form of Government.

13,137. *Dr. B. R. Ambedkar:* Quite so. My suggestion, therefore, Secretary of State, is this : That it would not be quite correct to say that a field of legislation which was under the Government of India Act regarded as of All-India importance is administratively to be hereafter regarded as purely provincial ?

Sir Samuel Hoare: No; I should draw a great distinction between the conditions under a unitary form of Government and the conditions under a Federation in which the Provinces are autonomous. We are quite definitely

changing the form of Indian Government from a highly centralised Government into a Federal Government.

13,138. *Dr. B. R. Ambedkar:* But I am only talking about the importance of the subject, a subject which, upto 1901, was regarded as of All-India importance, could not all of a sudden cease to be of All-India importance and become purely a local matter. I am aware that a great deal of concession has to be made for the new Provincial Government; the fact that the Government of India has upto now been regarded as more than of local importance has always to be recognised ?

Sir Samuel Hoare: I think it is very difficult to make such a comparison when it is admitted that the form of Government proposed is a very different type of Government. I think new conditions enter into the problem as soon as you move away from a unitary Government to a Government of Federation with autonomous Provinces.

13,139. *Dr. B. R. Ambedkar:* I will not press the point further, but I wanted to draw your attention to the fact that these subjects have hitherto been regarded as of more importance than purely Provincial subjects ?

Sir Samuel Hoare: I suppose, however, it would be fair to say that in most of them administration even under a highly centralised Government, has been Provincial.

13,140. *Dr. B. R. Ambedkar :* Yes ; subject to the control of the Centre ?

Sir Samuel Hoare: There again, I do not think that Dr. Ambedkar's comment upon my answer quite covers the whole field. It would not cover the transferred field in the Provinces.

13,141. *Dr. B. R. Ambedkar:* No; that is so. Next, I want to draw your attention to Proposal 125 and to Section 45 of the Government of India Act. Section 45 of the Government of India Act is what is called the Obedience Clause, and lays down that a Provincial Government shall be under the superintendence or the control in all matters relating to the Government and its Province and will also diligently and constantly inform the Government of India of its proceedings in all matters which ought in its opinion to be reported so as to give the required information. Now, what I would like to know from you. Secretary of State, is this. What is it that you wish to delete from the provisions and requirements of this Section 45 ? I see you do not want superintendence. That, of course, is obvious when the Provinces become autonomous. You want to retain direction only with regard to those matters which would be non-concurrent?

Sir Samuel Hoare: Yes.

13,142. *Dr. B. R. Ambedkar :* And there is to be no control ? Now the question that I want to ask is this : Do you desire that the Central Government

should be kept informed of what is happening under the field of Provincial administration, and do you desire that the Central Government should have the power to call for information will regard to the administration of any Provincial subject, so that it may inform itself of what is happening ?

Sir Samuel Hoare: No; we do not have any such general intention. We assume that as soon as you set up a Federal Government you must then have a definite allocation of powers between the Federation and the units. In many respects, the clearer you keep that division, the less likely it is that responsibility should be blurred, and the less likely it is that there will be incessant between the two kinds of Government. Quite definitely, under our scheme—indeed, it is one of the basic principles of it—we now divide up these various duties between the Federation, the Provinces, and the Imperial Parliament.

13,143. *Mr. N. M. Joshi:* May I ask a supplementary question? As regards the point of information raised by Dr. Ambedkar, I want to ask you this: In some cases, the compilation of statistics relating to All-India will be valuable. Such, for instance, as figures of All-India as regards Education. At present, although education is a transferred subject, the Government of India issues an All-India Report. Will the future Government of India possess power to collect information as regards transferred and spend money upon the compilation of an All-India Report ?

Sir Samuel Hoare: Only within the specified Federal field; anything outside the Federal field must be done by agreement.

Mr. N. M. Joshi : Education is not in the Federal field ?

Lord Eustace Percy: I am sure, Secretary of State, you are bearing in mind that in every Federation, for instance, in America, the research and statistical departments of the Federal Government go far beyond the Federal field.

13,144. *Mr. N. M. Joshi:* For instance, in America, they do publish an Educational Report for the whole of the United States ?

Sir Samuel Hoare: Yes. If Lord Eustace will look now at Appendix VI List I, he will see there that we have covered his point, that the Census and so on included in the Federal field, and there, I think, we must consider the point of All-India statistics generally—statistics, that is to say, for the purpose of Federation.

13,145. *Lord Eustace Percy:* I do not understand quite why it is necessary to limit it in that way. There is no reason why a Federal Government should not publish information and why its information should be entirely confined to the Federal field. It is not so in any other Federation I have ever heard of ?

Sir Samuel Hoare: But, surely a Federal Government can only act for the purposes of Federation. A Federal Government has no *locus standi* outside

the field of Federation.

13,146. *Lord Eustace Percy*: Of course, it cannot publish a report on the intellectual and moral progress of India if the Provincial Governments will not supply the information, I agree, but that hardly need be anticipated ?

Sir Samuel Hoare: I do not think there is any difference of opinion between Lord Eustace and myself; my comment was only directed towards keeping this kind of activity within reasonable limits. If a Federal Government constantly worried Provincial Governments for all sorts of information that had nothing to do with the Federal Government. Then, I can foresee constant difficulties arising between them.

13,147. *Dr. B. R. Ambedkar*: Might I give this instance which comes to my mind? Supposing, for instance, in a particular Province, criminal proceedings are taken against a foreigner and reference is made by his Government to the Government of India with regard to the proceedings taken against this particular foreigner in a Province, and the Government of India needs information in order to deal with the subject. Would the Government of India be in a position to require the Provincial Government to furnish information with regard to that subject ?

Sir Samuel Hoare: Yes, and also to take action. It would come within the field of foreign affairs.

13,148. *Dr. B. R. Ambedkar*: I submit that law and order would be a transferred subject ?

Sir Samuel Hoare: That may be so, but foreign affairs have special reservation. This Clause 125, which you are discussing now, I think, would cover that. Foreign affairs is a Federal subject. Under the second paragraph of Clause 125 the Federal Government could give directions to the Provincial Government.

13,149. *Dr. B. R. Ambedkar*: I mean, you see the necessity of the Central Government obtaining such information as is necessary for its purpose ?

Sir Samuel Hoare: Certainly, and I accept the need.

13,150. *Dr. B. R. Ambedkar* : I thought I would draw your attention to it because I do not find the information in Proposal 125 ?

Sir Samuel Hoare: I think that presupposes obtaining the necessary information from the Provincial Government. It is intended to anyhow.

13,151. *Dr. B. R. Ambedkar*: Now, with regard to Proposal 114, there is a proviso tacked on to it that the concurrent power shall not be exercised so as to impose a financial burden. What I would like to know is this. If there is a dispute that a particular proposal does impose a financial burden, one party contending that it does not, another party contending that it does, now is this dispute to be resolved ? Largely and broadly, for instance, the Central

Government proposes new service to be carried on by the new Provinces, one could draw the conclusion that such a thing would impose a financial burden, but there might be cases on the border-line where there might be a dispute ?

Sir Samuel Hoare: As the provisions stand at present, recourse would be to the Federal Court. That may not, however, be sufficiently comprehensive a method and, as I said the other day, we are considering the possibility of some kind of arbitral procedure to apply in cases that were not suited for settlement by the Federal Court.

13,152. *Mr. M. R. Jayakar:* It would fall at present under paragraph 155(i) ?

Sir Samuel Hoare: Yes, the Federal Court.

13,153. *Dr. B. R. Ambedkar:* There is just one more question I would like to ask you. Secretary of State, because I am not clear about it. What I want to know is this : With regard to these administrative relations, first of all, is the Central Government bound to employ the Provincial Governments as its agents ?

Sir Samuel Hoare : Yes, in the concurrent field.

13,154. *Dr. B. R. Ambedkar:* It is bound to ?

Sir Samuel Hoare : Yes.

13,155. *Dr. B. R. Ambedkar:* It cannot employ its own agents ?

Sir Samuel Hoare: It is our intention that the administration in the concurrent field should be Provincial.

13,156. *Dr. B. R. Ambedkar:* Subject to a question of whether its directions can be given or not—that is another matter ?

Sir Samuel Hoare : Yes.

13,157. *Dr. B. R. Ambedkar:* Then it would also follow that the Provincial Governments are bound to take up the work of the agency of the Central Government if they are called upon ?

Sir Samuel Hoare: Yes, under the Federal Law.

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13,411. *Dr. B .R. Ambedkar:* Also the fact that the backward classes are included in the Communal Award by having a certain number of seats assigned to them. Would that not also bring them under the definition of " minorities " ? I mean if, as you said just now, the minorities would be those communities that are covered by and included in the Communal Award. I should imagine the Backward Classes also would be included in the Communal Award ?

Sir Samuel Hoare: I think after this discussion I had better look once again into this very difficult question of these comparatively small bodies of people

scattered about outside the Excluded Areas, and perhaps Members of the Committee and the Delegates, will also think over the best way of meeting what appears to be a rather general desire.

13,412. *Dr. B. R. Ambedkar* : Might I draw your attention. Secretary of State, to the peculiar position occupied by the Criminal Tribes. The Criminal Tribes are more or less scattered in the general population. I am speaking of the particular experience of Bombay ; I suppose it is so in other Provinces. Now in order to protect the Criminal Tribes, which are, as I say, scattered in the general mass of the population, there is, I think, a Government of India Act called the Criminal Tribes Act. I am giving an illustration in order to suggest a method of protecting them. That Act gives the Governors some powers to make regulations with regard to the movements of these people and their interests. Would it not be possible for the Governor under paragraph 108 to pass some such regulation affecting the mode of living or protection of these people, although they may be scattered ?

Sir Samuel Hoare: It would only be possible under these clauses in the Excluded and partially Excluded Areas.

13,413. *Dr. B. R. Ambedkar*: What I wish to put to you is this : Would it not be open, for instance, to the Governor under paragraph 108, once he has got a definition of a person belonging to a tribal area or an aboriginal class, to make certain legislation affecting him whether he stayed in the Excluded Area or whether he stayed in the population, as is the case with the Criminal Classes ? The legislation of the Criminal Classes affects the members of the particular tribe no matter where he stays ?

Sir Malcolm Hailey: The Criminal Tribes Act is no longer a Government of India Act They have become matters of Provincial Legislation. The Criminal Tribes Act gives to the Local Government not specifically to the Governor, power to control the movements, to register and restrict in various ways persons who fall within the definition of Criminal Tribes as notified by the Local Government. Therefore it would be difficult to apply that analogy to the extension of the special protection of the scattered aboriginals or Backward Classes. In any case, that is a matter which the local Legislature could undertake now of its own initiative. My point was that it gives no special power to the Governor as apart from the Local Government.

13,414. *Dr. B. R. Ambedkar*: But under paragraph 108 the Governor could, for instance, by notification classify people as belonging to aboriginal or Backward Areas, and then pass legislation affecting them, no matter where they stayed ?

Sir Samuel Hoare : I do not think he could do that under paragraph 108. Under paragraph 108 he could only deal with people living in the scheduled

territory.

13,530. *Dr. B. R. Ambedkar* : I want to ask you one or two questions to clear up the financial side of this problem. I want to ask a question, first of all, with regard to financing what are called the partially excluded areas ?

Sir Samuel Hoare: Yes.

13,531. *Dr. B. R. Ambedkar*: I take it that there would be a common budget, the provincial budget, in which the moneys provided for the partially excluded area would also be included ?

Sir Samuel Hoare : Yes.

13,532. *Dr. B. R. Ambedkar* : In that case, the whole budget, of course, would be open to discussion by the Legislature ?

Sir Samuel Hoare: Yes, subject to paragraph 109.

13,533. *Dr. B. R. Ambedkar* : I am coming to that. It is only when the Governor exercises his special responsibility under paragraph 70 that they would go outside the purview of the Legislature ? Is not that so ?

Sir Samuel Hoare: Yes, and paragraph 109.

13,534. *Dr. B. R. Ambedkar*: But ordinarily they would be part of the provincial budget ? *Sir Samuel Hoare*: Yes.

13,535. *Dr. B. R. Ambedkar*: I want to ask a similar question with regard to the wholly excluded areas. I find that the special responsibility of the Governor under paragraph 70(f), is confined to partially excluded areas only?

Sir Samuel Hoare : Yes.

13,536. *Dr. B. R. Ambedkar*: That means that for the administration of the wholly excluded areas the Governor could not draw upon the provincial funds ?

Sir Samuel Hoare : *Dr. Ambedkar's* very acute mind has discovered a gap in the White Paper. That is so.

13,537. *Dr. B. R. Ambedkar*: He could not draw upon them ?

Sir Samuel Hoare: As drafted he could not draw upon the provincial funds. It is an omission that we propose to set right in any final draft.

13,538. *Dr. B. R. Ambedkar*: Another paragraph is 49 to which I also want to draw your attention in this connection. There sub-clause (v) says that the expenditure required for excluded areas shall be the special responsibility of the Governor-General ?

Sir Samuel Hoare: Yes.

13,539. *Dr. B. R. Ambedkar*: Do I take it that in the administration of the wholly excluded area the Governor, who presumably would be the agent of the Governor-General, would have to depend upon such moneys as may be supplied to him by the Governor-General in the exercise of his special responsibility ?

Sir Samuel Hoare: No; the Governor himself will ask for the money from the Province.

13,540. *Dr. B. R. Ambedkar:* So you do propose to amend the provision dealing with the special responsibilities of the Governor to enable him to draw upon provincial funds for the administration of the wholly excluded areas also ?

Sir Samuel Hoare : Yes.

Mr. M. R. Jayakar: Does it not now fall under paragraph 96, subparagraph (b): "The Governor will cause a statement of the estimated revenues ", etc., and then you have given power to specify separately those additional proposals (if any), whether under the votable or non-votable heads, which the Governor regards as necessary for the fulfilment of any of his " special responsibilities ". Special responsibilities include expenditure to be spent on the partially excluded areas.

13,541. *Dr. B. R. Ambedkar :* I am talking about wholly excluded areas ?

Sir Samuel Hoare : The point Dr. Ambedkar has raised deals with totally Excluded Areas and, by an error in drafting (it is nothing more than that) it would appear that the Provincial Governor, while he could draw upon the provincial funds for partially Excluded Areas, could not draw upon the provincial funds for the totally Excluded Areas. That is an omission in drafting.

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13,722. *Dr. B. R. Ambedkar :* Might I ask just one question arising out of the questions put by Mr. Joshi. I just want to draw the attention of the Secretary of State to a difficulty which I feel. Under paragraph 109 as drafted the distinction made between the Excluded Area and the partially Excluded Area is on the basis that in the partially Excluded Area discussion is possible or the Governor has the power to disallow it, while in the case of an Excluded Area, the Governor is prohibited from allowing any discussion. My difficulty is this: Yesterday, I think in answer to a question by Major Attlee, you stated, Secretary of State, that the contribution which the Centre was bound to make to Assam in order to cover the deficit arising out of the Excluded Area there was not to be an earmarked amount but was to be part of the general revenues of the Province of Assam. I suppose I am correct in saying that that was what you stated ?

Sir Samuel Hoare: I think I left the question somewhat open as to whether it should be a specific grant or whether it should be merged in the general grant.

13,723. *Dr. B. R. Ambedkar:* The impression that I formed was that you said you did not think that it would be an earmarked amount ?

Sir Samuel Hoare: No. I think what I said, or anyhow what I intended to say, was that in the figures that we had been discussing we had assumed that it would be part of the general fund, but as to whether that was the best way of dealing with it I had an open mind.

13,724. *Dr. B. R. Ambedkar:* Very well. I will take another aspect of the thing. In answer to a question which I put you stated that so far as the financing of the Excluded Area was concerned you were going to rectify the omission in the White Paper and allow the Governor of the Province to draw upon the general fund of the Province of Assam for the expenditure that he was likely to incur under the Excluded Area ?

Sir Samuel Hoare: Yes.

13,725. *Dr. B. R. Ambedkar:* The difficulty that I feel is this, that if the Governor is to have the power to draw money from the Provincial Fund of Assam in order to carry on that administration in the Excluded Area, is it consistent with this provision in paragraph 109 that the Legislature should be altogether prohibited from discussing the affairs of the Excluded Area which is supposed to provide that money ?

Sir Samuel Hoare : I think Dr. Ambedkar does raise a difficult case. It is not a case in which a very large sum is involved, for this reason, that by far the greater part of the expenditure upon the totally Excluded Area of Assam will be found from Federal funds, but I think it may be assumed that there will be a sum in addition to that needed.

13,726. *Dr. B. R. Ambedkar:* As you said yesterday, in all these areas where there will be partially Excluded Areas the Budget would be a common Budget, unless, of course, the Governor certified an extra amount under his extra responsibility, in which case the Budget as a whole would be placed before the Legislature and open to discussion. I do not see how the difficulty would be got over ?

Sir Samuel Hoare: We had considered the advantage in a case of that kind of proceeding, say, by a contract but get over a period of years. What I am anxious to avoid are frequent discussions.

13,727. *Dr. B. R. Ambedkar:* I suppose the purpose could be best served by having a common provision for both, prohibiting discussion and allowing the Governor the power to prohibit it or disallow it, whichever he thought necessary ?

Sir Samuel Hoare: It was pressed upon us very strongly by the people working in these tracts that there was a great advantage in excluding discussions in the case of the totally Excluded Areas, but I have always seen the difficulty of the expenditure in Assam from provincial funds. I think the Committee and the Delegates might consider whether supposing there was a

contract budget for a period of years when the contract was renewed there might then be a discussion; but even that (I say it so that the Committee should know the whole position) is contrary to the views of a good many of the experts.

13,728. *Dr. B. R. Ambedkar:* But I suppose the purpose of the experts and the purpose that you have in view would be very well served by having this power of the Governor to allow a resolution and discussion ?

Sir Samuel Hoare: What we wanted to avoid was the Governor constantly having to refuse discussions of this kind. It would put him into a difficult position, and we do not contemplate in the case of totally Excluded Areas that there would be discussions, and we do not want to take any action that would appear to permit discussions that we think would be harmful to the area ; that is what it comes to.

Dr. B. R. Ambedkar: I was only suggesting that the Governor's power would be adequate protection against that. That is all I ask.

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13,923. *Dr. B. R. Ambedkar :* Might I ask one question on that point ? As I understand it in the concurrent field there will be an appeal to the Privy Council from the decisions of the High Court ?

Sir Samuel Hoare: Yes.

13,924. *Dr. B. R. Ambedkar :* What I do not understand is this, if there can be an appeal to the Privy Council in an issue arising out of an interpretation of the concurrent law in the concurrent field, what difficulty can there be in allowing such an appeal to the Federal Court ?

Sir Samuel Hoare : One of our reasons anyhow is that we do not want to flood the Federal Court with an enormous amount of work and the demand for a very large number of Judges at the beginning.

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14,373. *Dr. B. R. Ambedkar :* Secretary of State, I just want to ask one question about paragraph 155. This para 155 relates to exclusive original jurisdiction of the Federal Court. I do not understand the distinction that seems to be made there. I find on reading paragraph 155 that you make a distinction in the matter of the exclusive original jurisdiction of the Federal Court on the basis that where the parties to the dispute are as there mentioned in sub-clauses (a) and (b), the exclusive original jurisdiction is given to the Federal Court, but the Federal Court cannot have an exclusive original jurisdiction if the parties are private individuals. Now the question I would like to ask is this. The issue in both cases is the same, namely, the constitution issue involving the interpretation of the Constitution Act What I do

not understand is this. Why there should be this distinction in the matter of an exclusive original jurisdiction of the Federal Court based on parties when the issue is the same ?

Sir Samuel Hoare: I think this is what usually happens with Federal Courts that the original jurisdiction is jurisdiction between units, and it is in the appellate jurisdiction that the individual comes into it as of right.

14,374. *Dr. B. R. Ambedkar :* I mean, if the intention is that where, for instance, the interpretation of the Constitution Act is involved, the matter should at once go to the Federal Court, then I think there can be no distinction made whether the parties are parties which are units of the Federation or of individuals ?

Sir Samuel Hoare: I would have thought that this was one of the necessary working conditions of a Federal Court. I think if it had original jurisdiction in individual cases as well it would be entirely swamped with cases.

Dr. B. R. Ambedkar: But, all the same, the issue in both cases would be the same, namely, the interpretation of the Constitution Act. I can quite understand the distinction being based upon different causes of action, but where the cause of action is the same, or rather the plea is the same, namely, that there is a breach of the constitution, I do not see any justification in making this distinction based upon units and parties.

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14,380. *Dr. B. R. Ambedkar:* Now there is another question which I wish to ask the Secretary of State, and it is this. I do not find any provision in the White Paper about it. Do not you think, Secretary of State, it is desirable that there should be provision made allowing private individuals to sue for a declaration that a particular act is unconstitutional, although he is not seeking any specific relief ? I mean, all the cases that you have provided for I find are cases in which some specific relief is asked for. It may be desirable that a private party, in order to safeguard his future, may like to test at once if he has any doubts whether the particular proposal made by the Federation or by a Province is unconstitutional so that he may safeguard his position for the future, although, at the moment, when he is filing the suit for the proceedings, he has no reason to seek any specific relief ?

Sir Samuel Hoare: I have some hesitation, not being a lawyer, in answering a question of that kind, but if I may give offhand the answer of a layman I would have said that it was extraordinarily difficult to allow a general right of that kind without any specific issue affecting the individual.

Marquess of Reading: May I make the observation that what you have said is really the law as it is applied in this country ? We do not allow these

applications of what are called Qia timet, that is to say, merely a case of difficulty hereafter to get a declaration when there is no substantial dispute and the moment there is a dispute it can be done. We never allow it, and I do not think they do in India.

Sir Hari Singh Gour : No cause of action; no right of suit.

Mr. Zafrulla Khan: Indeed there would be very great difficulties if such a provision were inserted in the Constitution. You would start a million suits being instituted in India the moment the Act was passed.

14,381. *Dr. B. R. Ambedkar*: I do not know whether everybody will exercise his right ?

Sir Samuel Hoare : It would be an excellent affair for the legal profession in India.

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15,741. *Dr. B. R. Ambedkar*: Just one question. Secretary of State, dealing with the exceptions in (c), " Special Powers " (Special powers of the Governor-General) as I understand, the position is this: Generally speaking, the Legislature cannot pass a discriminatory Act. I am speaking quite generally ?

Sir Samuel Hoare : Yes.

15,742. *Dr. B. R. Ambedkar*: Administratively the Government of the day cannot discriminate unless it satisfies the Governor that there is no discrimination in fact?

Sir Samuel Hoare : No.

Mr. M. R. Jayakar: The Governor-General.

15,743. *Dr. B. R. Ambedkar*: The Governor-General or the Governor, because the provision refers to both. That is theoretically and generally the position, is it not?

Sir Samuel Hoare : Yes.

15,744. *Dr. B. R. Ambedkar*: Now under sub-clause (c) the Governor-General will have the power to pass a legislative enactment making a discrimination if it came within the terms of this proviso. I mean, this power you give to the Governor not only for administrative purposes, but also for legislative purposes ?

Sir Samuel Hoare: It is the general power under Proposal 18 of the White Paper.

15,745. *Dr. B. R. Ambedkar*: Governing both; so that the Governor may discriminate although the Government may not ?

Sir Samuel Hoare: For the prevention of any grave menace to peace and tranquillity.

15,746. *Dr. B. R. Ambedkar*: Yes; Now I want to ask what is the import of this. I will put one or two specific illustrations to see if that is what you mean. I suppose under this clause it would be possible for the Governor-General, by way of prevention of any grave menace, to say that certain persons shall not be employed in the Army. Would it be open to the Governor to do so under this ?

Sir Samuel Hoare: I suppose theoretically it would be, but the case would be very remote in connection with a grave menace to peace and tranquillity. I cannot, for instance, imagine putting the concrete case which is perhaps in Dr. Ambedkar's mind, a Governor-General saying that a proposal to start a unit endangered the peace and tranquillity of India.

15,747. *Dr. B. R. Ambedkar*: I am glad to hear that. That is what rather disturbed me ?

Sir Samuel Hoare: I am not saying whether from a military point of view it would be a good or a bad plan but I cannot see that this would come within the scope of this safeguard.

15,748. *Dr. B. R. Ambedkar*: Nor would it come within the special powers of the Governor in this clause to say that the Depressed Classes shall not be employed in the Police ?

Sir Samuel Hoare: No.

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